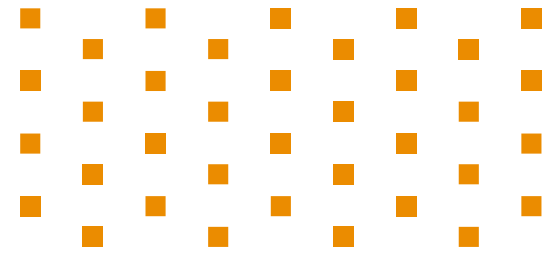


PwC Annual Global Crypto Tax Report 2024



Introduction and emerging trends



To say that the last year has been a difficult year for those working in the digital assets market would be an understatement, although markets appear to be recovering in early 2024. While many market participants have spent the year reflecting on what went wrong and considering how the sector can build back better and learn from 2022 and 2023's failures, one group that has not stood still are the regulators. Change has taken many forms – be it enforcement against the sector (e.g., the US SEC and CFTC have lodged a number of enforcement actions against crypto exchanges), or working to introduce new regulations (with the EU, UK, Dubai, Hong Kong SAR, Singapore and many other markets releasing significant new regulations this last year).

In addition to financial regulation, tax has been an area where there has been significant development. We see the regulatory landscape as developing along three broad themes, each of which will require some new thinking or approaches to taxation.



Theme #1: Increasing regulation of brokers and intermediaries, custodians and other market participants

Associated tax trend: Reporting, Reporting, Reporting: New regulations on tax reporting for brokers and other intermediaries involved in the exchange of crypto assets in the US, EU and internationally via the OECD's Crypto Asset Tax Reporting Framework (CARF) will have a major impact on those affected. The volume of data that will need to be gathered, organised and reported can only be managed via new technology solutions. We will discuss some of the issues that need to be considered.

Theme #2: Tokenised real-world assets (RWAs)

Associated tax trend: Tokenisation leads to a number of novel and unique tax challenges, covering both direct and indirect tax. In our second article, we explore some of the tax challenges that will need to be overcome and explore how market participants in these new economic systems might be taxed.

Theme #3: Regulation of stablecoins, along with wider consideration of other forms of tokenised money (bank deposit tokens and Central Bank Digital Currencies (CBDCs) and even tokenised money market funds)

Associated tax trend: As usage of these new tokenised forms of payment expand, in many cases tax rules can inadvertently treat these differently to how we would treat traditional money. Whether this is due to needing to track gains and losses on price movements, (however small), or triggering additional tax reporting. Consideration should be given to how loans and financial transactions of non-money based tokenised assets like stablecoins are treated within existing tax rules.

These articles supplement those on the issues we covered in our 2022 report covering decentralised finance and non-fungible tokens¹.

In addition to our three articles on international tax themes, our report has also significantly expanded its jurisdiction-specific pages. We now have coverage of **59 different tax regimes** to create what we believe is an essential reference source for anybody working on taxation in this sector.

1. PwC Annual Global Crypto Tax Report 2022
<https://www.pwc.com/gx/en/financial-services/pdf/global-crypto-tax-report-2022.pdf>



1. Crypto asset tax reporting

Global custodians are predicting that 5%-10% of all assets will be tokenised by 2030, potentially a market worth \$19.5 trillion². This presents new opportunities in the market and tax to collect. This trend has not gone unnoticed by tax authorities.

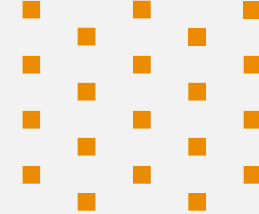
Tax authorities estimate that non-compliance and misreporting on crypto-asset holdings currently ranges as high as 55% to 95%. Based on an analysis published by the US Government Accountability Office, misreporting fell from 55% to 5%³ in instances where third party information was required. The root cause of the misreporting and non-compliance varies: (i) attributable to unclear tax guidance from tax authorities (ii) due to the lack of information (iii) or behavioral given crypto transactions currently happen outside of tax information reporting obligations. The determination of a tax liability requires granular data to be enriched to determine character, source, timing, basis, deductions/adjustments, etc. Whilst data captured on a blockchain can support the calculation of a tax liability, it is incomplete as a tax liability typically focuses on the aggregation of events (purchase - cost basis, basics adjustments fees, FMV determination and gain/loss/and ordinary income earned). This information needs to come from other parties involved in a crypto asset transaction (on-ramp, off-ramp, exchanges, etc.)

The scale of this problem will increase as more asset-classes are tokenised (i.e. securities). Historically, some of these assets would have been

subject to third party tax information reporting under the OECD Common Reporting Standard (CRS - a version of third-party information reporting), which is based on year-end values and aggregation of payment events during a year. As these asset classes are tokenised, they potentially move outside of this tax information reporting regime because crypto assets can be transferred and held without interacting with traditional financial intermediaries.

We have seen an increase in the global effort by governments and taxing authorities to counteract misreporting. The emergence of traditional and digital assets will continue to occupy a hybrid financial ecosystem for the foreseeable future - disrupting value chains and processes while enabling new products and services. The success of the tax information reporting effort enhances regulatory frameworks across the globe and the maturity of the digital landscape as we know it. The OECD is spearheading these efforts with momentum from Global forum members and others, as outlined below.

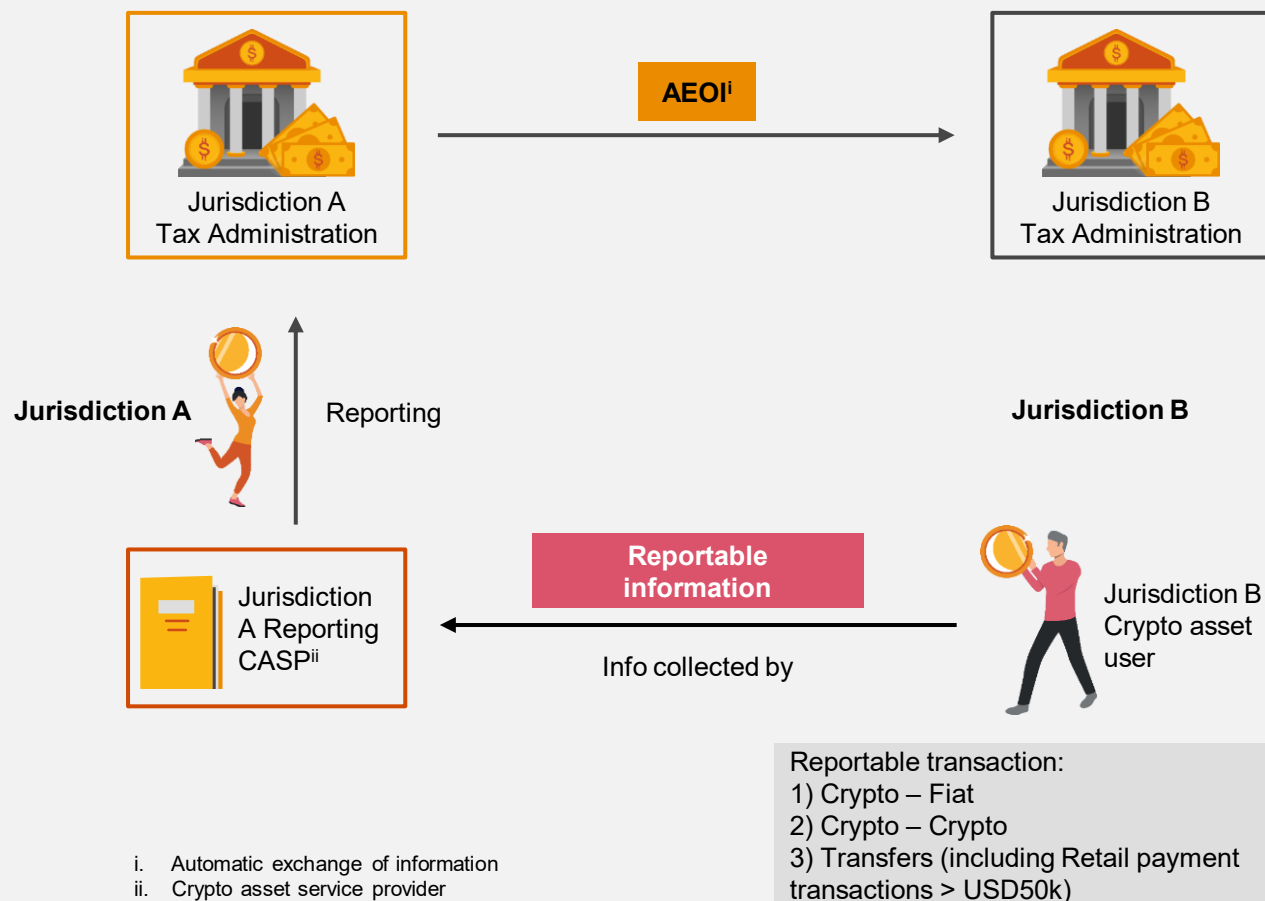
2. HSBC and Northern Trust – Beyond Asset Tokenisation (January 2023)
<https://www.northerntrust.com/content/dam/northerntrust/pws/nt/documents/asset-servicing/beyond-asset-tokenisation.pdf>
3. GAO, 2019. “Multiple Strategies are Needed to Reduce Noncompliance: Statement of James R. McTigue, Jr., Director, Strategic Issues,” GAO-19-558T.
<https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf>



The Organisation for Economic Co-operation and Development (OECD)

The G20 appointed the ‘Global Forum on Transparency and Exchange of Information for Tax Purposes’, a forum of 168 countries convened under the auspices of the OECD, to oversee widespread implementation of a Crypto Asset Reporting Framework (CARF) “for the automatic exchange of information related to crypto asset transactions by 2027 ... with some flexibility”. As of 1 December, 54 jurisdictions⁴, largely those that have active crypto markets, have stated their intent to swiftly implement the CARF. Amendments are also being made to the CRS to include e-money and expand the definitions to cover digital assets and crypto derivatives. Importantly, the CARF is a separate and complementary framework, so there will be some businesses reporting under both the CRS and the CARF. There are options to switch-off certain reporting under the CRS if such information is reported under the CARF. This requires crypto platforms and other crypto asset service providers to start sharing taxpayer information with tax authorities, to be exchanged with other tax authorities on a global basis.

Visualisation of the reporting chain of events under the CARF and CRS frameworks



4. 16th Global Forum on Transparency and Exchange of Information for Tax Purposes plenary meeting - Statement of outcomes (1 Dec 2023) <https://www.oecd.org/tax/transparency/documents/2023-global-forum-plenary-meeting-outcomes.pdf>

The CARF framework will require businesses such as exchanges, brokers, custodians, and wallet providers, inter alia, to collect and report information on the identity and transactions of their users to the tax authorities of their residence or jurisdiction of operation.

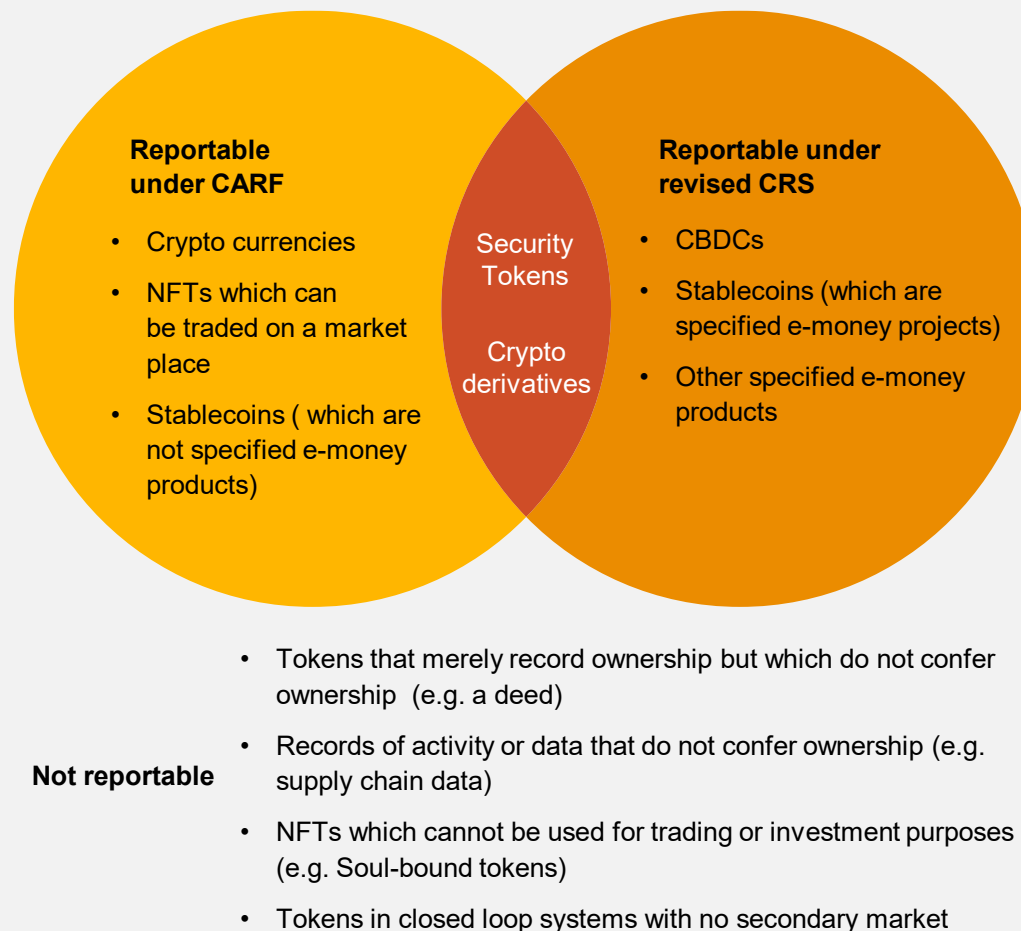
Reportable transactions include:

- i. exchanges between crypto-assets and other crypto-assets;
- ii. exchanges between crypto-assets and fiat currencies; and
- iii. transfers and reportable retail payment transactions of crypto-assets.

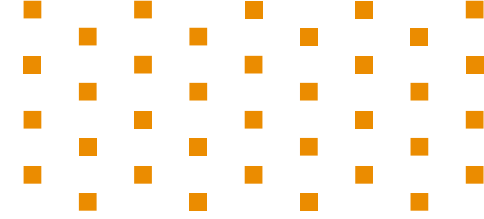
Reportable retail payment transactions are transfers of crypto-assets in consideration of goods or services for a value exceeding USD 50,000.

Reportable crypto-assets include those that can be used for payment or investment purposes. Central bank digital currencies and stablecoins which are specific e-money products, are captured by the CRS as they share functional similarities with fiat money in bank accounts, whereas other stablecoins and cryptocurrencies are expected to be reportable under the CARF. non-fungible tokens (NFTs) need to be evaluated on a case-by-case basis. Whilst true collectibles or NFTs that merely reflect an ownership record might not be used for payment or investment purposes, other NFTs very well could be (for example most NFTs on public blockchains are freely tradable on NFT market places for crypto currency payment and thus could be argued to have a secondary market). It is also worth noting that while in many respects, the definition of reportable crypto assets aligns with the Financial Action Task Force (“FATF”) guidelines on AML and KYC requirements, the scope of reportable crypto assets under CARF can be argued to have broader application – particularly for NFTs.

How different types of crypto asset are caught by which reporting regime



Note: For crypto assets that fall under both CARF and CRS reporting, then there is an option to switch off CRS reporting and only report under CARF.



Businesses subject to these rules will be required to conduct extensive tax due diligence procedures on crypto asset users to determine if they are reportable. These procedures largely follow the self-certification model used for the CRS. Accordingly, starting around 2026 operating models will need to have changed and data will have been collected to facilitate reporting in future years. Tax authorities are already planning on how they will utilise this data - for instance voluntary disclosure regimes for unpaid crypto taxes have appeared in advance of the exchange of crypto asset transaction data to give taxpayers the opportunity to regularise their affairs.

European Union - Directive on Administrative Cooperation in the Area of Taxation 8 (DAC8)

Complementing the recent OECD developments is EU DAC8. DAC8 provides an update to the existing CRS legislation and the exchange of cross border information and is broadly aligned with the OECD's CARF initiatives. The Directive was adopted by EU Member States and entered into force on 13 November 2023. EU Member States will have until 31 December 2025 to transpose the new rules into national law with first application for most provisions from 1 January 2026. DAC8 applies to crypto-asset service providers, a defined term, whether they are regulated or not (the latter will be required to register in one single Member State for the purpose of complying with their reporting obligations).

United States

The US Treasury and the IRS on 25 August 2023 issued highly anticipated proposed regulations regarding information reporting, determination of the amount realised and basis, and backup withholding for certain digital asset sales and exchanges.

The regulations, if finalised as proposed, would impose obligations to file information returns and furnish payee statements on dispositions of digital assets based on companies engaging in a broad array of services or activities related to digital assets.

Key provisions of the Proposed Regulations would:

- define “digital assets” subject to reporting;
- address reporting in cases in which a digital asset also represents an asset reportable under another reportable category (for example, securities, commodities, or real estate);
- expand the definition of “broker” to include both traditional brokers (like dealers, barter exchanges, and any other person who for consideration regularly acts as a middleman with respect to property or services) and any party providing “facilitative services” (which can include digital asset payment processors, certain digital asset wallets, and other service activities);
- identify circumstances in which reporting is not required (such as for certain merchants and validators);
- provide the information to be reported individually, and not in aggregate, on such transactions; and
- propose substantive tax rules regarding the computation of the amount realised, the determination of basis, and the allocation of costs related to certain digital asset transactions.

This definition of digital assets includes stablecoins, NFTs, tokenised stock, and other kinds of assets and is not intended to apply to other types of virtual assets that exist only in a closed system (such as video game tokens that can be purchased with fiat currency but can be used only in-game and cannot be sold or exchanged outside of the game or sold for fiat currency).

As it relates to the definition of “broker,” the proposed Regulations would expand the definition to include any person that provides “facilitative services” that effectuate sales of digital assets by

customers, provided the nature of the service arrangement with customers is such that they are in a position to know the customer’s identity and the nature of the transaction.

These proposed regulations would require a significant amount of information to be reported by brokers including transaction ID, digital asset address from which the digital assets were transferred in connection with the sale, and whether consideration received was cash, different digital assets, other property or services. This is in addition to the customer’s name, address, and Tax Identification Number (TIN); the

name or type of the digital asset sold and the number of units of the digital assets sold; the sale date and time; the gross proceeds of the sale; and any other information required by the form or instructions in the way required.

These reporting requirements generally are proposed to become effective for sales and exchanges of digital assets effected on or after 1 January, 2025, with later effective dates for basis reporting and transfer statements.



Implications for tax information reporting

Whilst setting up a compliance programme and new operating model to deliver accurate and timely reporting will require significant change and budget, the industry has some advantages compared to traditional financial institutions that are reporting information under the CRS. According to the IRS Project Director for its Digital Assets Initiative, the agency now expects to receive an astonishing “eight billion” 1099-DA reports annually⁵. Based on that volume of reports, the implementation and annual reporting costs will be in the billions of dollars. The IRS Project Director also acknowledged that eight billion 1099-DAs would more than double the amount of all 1099s the IRS currently receives annually from traditional financial institutions.

Notably though, many crypto asset services are cloud-native and do not hold client and transactional data in paper form or legacy systems that are not configured for tax reporting. The cloud presents new opportunities to deliver a compliance programme involving structured, semi-structured and unstructured data at scale. Data lineage and traceability are going to be critical success factors in relation to producing accurate tax information returns and demonstrating a resilient compliance operating model.

- Different data sets can be bridged such as other crypto services providers, blockchains, price indices, public beneficial ownership databases are all possible in the cloud. Business events engines can record and reconcile the enrichment of data from source to where it is recorded in a golden source.
- The tax due diligence, reconciliation and reporting processes can then be applied in an automated manner. Machine learning models can be developed to profile and identify reportable crypto asset users.
- Generative AI models allow new opportunities to engage directly with the data - for instance a risk manager may be interested in different features compared to the tax reporting manager. The data may even identify opportunities to deliver new and proactive services.
- Horizon-scanning can result in quicker change compared to traditional SaaS models requiring lengthy change request procedures.

Compliance could be a differentiator - the benefits are cost-effectiveness, scalability, and innovation that the cloud offers. This could allow those who are brave and move quickly to gain a competitive edge in the dynamic, fast-growing market for crypto-assets and related services.

5. Jonathan Curry, IRS Prepping for at Least 8 Billion Crypto Information Returns, Tax Notes (26 Oct 2023).



2. Tokenisation of real-world assets (RWAs)

Tokenisation refers to the digital representation of real-world assets using distributed ledger technology (DLT). Assets which are generally used for tokenisation range from securities (equities, bonds, loans, and money market products) to illiquid assets (such as real estate, artwork, collectibles, or intellectual property such as music).

The tokenisation process involves blockchain technology to provide a record of ownership of these RWAs. The benefits of this are the certainty provided by an immutable record of ownership, and the ease of being able to update that record via electronic transactions, rather than paper.

It is important to distinguish between classes of use case where digital tokens are used to represent ownership. In some cases where a token sits alongside a physical asset, the token *certifies ownership, but only as an adjunct to the ownership of the physical asset*, certifying the status of the owner and the authenticity of the asset. This might be the case, for example, with a digital certificate relating to a gemstone or a luxury fashion item. The conventional laws of contract govern the sale and ownership of the asset; the digital token merely corroborates the ownership and authenticity of the item.

This can be contrasted with cases where the ownership of the token is *the legal mechanism by which ownership of the asset is perfected*. A legal mechanism is established whereby the ownership of an asset is represented by tokens. Ownership of a token is ownership of the asset, in that it confers beneficial entitlement to all of, or a share of, the asset. The asset in question could be tangible (for example, a real property or an artwork) or intangible (for example, a share or security).

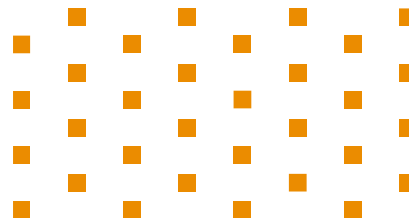
These digital assets, or tokens, are fungible and transferrable, and may be traded in a marketplace. Transfer of the token prima facie transfers ownership of the asset, in the same way that executing a share transfer form transfers ownership of the share.

From a tax perspective, a key question to consider is whether tokenisation of real-world assets (tangible and intangible) results in tax treatment which may be different from holding the real-world assets directly.

In the use cases where the token acts only as corroborative certification of ownership of an asset, and that asset is transferred under conventional rules of contract, it seems very unlikely that the existence of the token would have any impact on the tax analysis.

This article therefore focuses on the latter case, where transfer of a token is intrinsically and legally linked to the transfer of beneficial ownership of an underlying asset.

In determining the tax treatment, the underlying rights of the contracting parties will be an important factor. Each participant on the DLT may have different roles to play and, hence, the tax treatment of each party should be considered.



Legal and tax framework

There is a growing awareness of the benefits of and market opportunities in tokenisation. Tax and regulatory authorities in many jurisdictions are beginning to engage with industry participants to develop a framework for the new industry to flourish and to allow digital assets to be used in the financial system.

In legal terms, it is important to first consider how a real-world asset can be tokenised. Some element of a contractual framework is necessary. At its simplest, this could consist of a contract whereby:

- one or more investors jointly agree to own an asset (“the Asset”) in agreed proportions;
- those proportions are represented by tokens;
- the agreement stipulates that a transfer of a token is only permitted if the transferee agrees to become party to the agreement in place of the transferor.
- the agreement therefore constitutes joint ownership of the Asset.

A more complex legal mechanism leading to a similar result might be specifically constituted as a partnership, a trust, or a similar vehicle by

which a nominee holds conventional legal title to the asset, but the beneficial interest is governed by the transferrable tokens. Ownership of a token makes the holder a beneficial owner of the underlying asset, by virtue of being partner, or a beneficiary of the trust, or whatever status arises from the nature of the vehicle.

It seems likely that, over time, standard structures will develop to achieve this in key markets and for key asset classes. Similarly, jurisdictions wishing to facilitate this type of arrangement may introduce specific laws to facilitate these structures, similar to the laws which currently govern securitisation in many territories. At the present time, in most jurisdictions, such laws have not yet been created, and the various legal structures are being explored.

Similarly, not many jurisdictions have adopted specific tax rules to address tokenised forms of real-world-assets directly. The general trend seen in most countries is to adapt the existing tax rules to cater for the potential new asset classes being created. In addition, we are seeing revenue authorities around the world issuing guidance and interpretation notes on how they view the treatment of digital assets, which is a useful start. Many are also adopting additional disclosure requirements for digital assets as part of the tax return process.

Direct tax considerations

As noted above, the tokenisation of a real-world-asset will allow one or more interested parties to acquire a stake in that digital asset in the form of a token. The token, by some mechanism, entitles the owner to income or gains arising from the asset. In some cases (e.g. where the underlying asset is real property) it may also result in the token holder having liabilities or obligations. The question arises as to how these matters should be dealt with for tax purposes.

In considering this, it will be important to establish whether the tax law in question regards ownership of the token as direct ownership of the asset, or as ownership of an interest in a vehicle which itself owns the asset. As explained above, the mechanisms used to create a tokenised interest in an asset are not straightforward and, as a result, it may not be obvious which of these explanations is correct.

Likely this question will have to be answered on a case-by-case basis, with individual answers for different jurisdictions, vehicles, and underlying asset classes.

In some cases the answer may be a moot point. For example, consider a tokenised artwork asset, where the tokenisation agreement has the characteristics of a partnership. In many

situations it may not make a significant difference to an investor whether a gain on sale of the tokens is treated as a sale of the asset, or the disposal of an interest in a partnership whose only asset is the property, but this will depend on the jurisdiction.

However, once situations become more complex, it seems likely that care will need to be taken to analyse specific investments to determine how the investor should be taxed. The issues generally depend on the class of asset.

Some examples are given below.

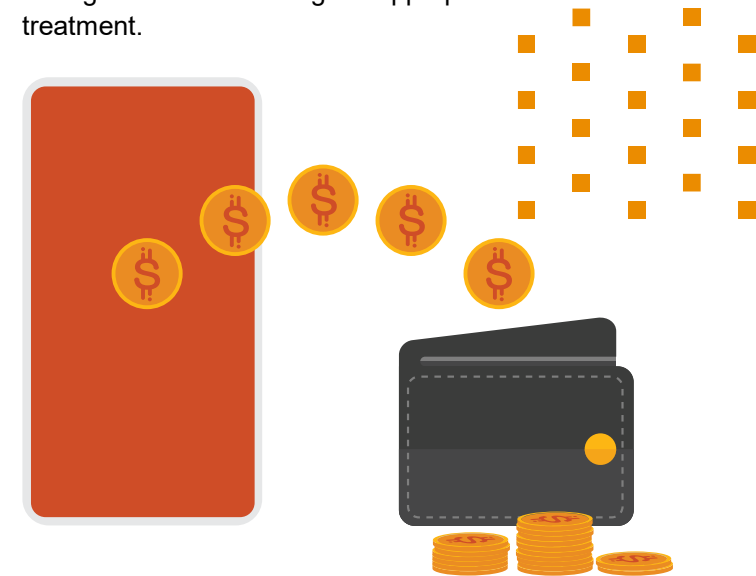
Tokens linked to physical assets

Let's start by assuming that ownership of a tangible asset in tokenised form is likely to be for investment purposes.

As a starting point, income and gains arising on the token would be similar to the income and gains arising on the underlying asset. There may be a difference of classification depending on whether the tax law in question views the arrangement as a direct holding of the asset. That difference itself is unlikely to make a significant difference to the quantum or timing of taxable income.

However, there could be differences to the treatment and deductibility of associated

expenses. For example, if I own real estate, I may be able to deduct from my taxable income the costs of insurance, maintenance, etc. There may also be specific deductions available from the cost of buying and selling the property. How do these costs play out in the case of a tokenised real estate asset, if tax law treats this as token ownership? Does an insurance contract I take out result in a deductible cost if it is insuring the value of the property which I do not myself own (even supposing that the insurer allows that I have an insurable interest)? Does the payment made for maintenance or repairs result in an allowable cost of owning the token? These are some examples of the issues to be thought through when considering the appropriate tax treatment.



Tokens linked to financial assets

Tokens acquired over financial assets such as shares, securities or bonds, etc. is another example to consider. Much like the scenario for physical assets, tokens over financial assets are expected to follow the same tax treatment as holding the financial asset directly. For example, interest accruing to a token holder over a bond is expected to be treated as income subject to tax in the same manner as holding the bond directly.

However, where the returns in question would normally be exempt from tax (such as for example dividends in certain jurisdictions) it becomes a little less clear. If it is assumed that the nature of the return attributed to a token holder is still a dividend, the tax treatment should remain the same. Where, however, the dividend paid no longer meets the definition of an exempt dividend (because the nature of the taxpayer's receipt is now treated as a payment in respect of a token, rather than a dividend in respect of a share), it may be that certain revenue authorities will view this as ordinary income subject to tax.

Similarly, disposal of a token representing an ownership interest in a share will give rise to questions as to whether the investor is eligible for participation exemption, again depending on the local law and the exact nature of the tokenisation vehicle.

There will also be corresponding questions for the issuer of the tokenised shares or securities. In determining the beneficial owner of the instruments for the purposes of applying withholding taxes, for example, it may again be necessary to look at the tax characterisation of the tokenisation structure.

It will be important for tax regimes to find a way to manage this in a manner consistent with the investor's tax analysis, otherwise questions will arise as to whether tax withheld by the issuer on (say) a bond coupon is treated as creditable when the issuer is being taxed on the corresponding token receipt.





Value added tax and tokenisation

Value added tax (VAT) - known as goods and services tax (GST) in some countries - is a transaction-based tax. The precise VAT consequences of various events in the tokenisation cycle will likely depend on the underlying contracts and the form of the transaction. We discuss below the potential VAT consequences, starting with formation, followed by various operational activities, and finally we discuss cessation.

Tokenisation event

Fundamentally speaking, asset tokenisation is the process of transforming an underlying asset into a unit of a digitised asset called a “token”. Importantly for and in the context of VAT, the ownership of the underlying asset is not transferred as a result of the tokenisation event. In some cases, the asset may be fractionalised as a result of the tokenisation, allowing multiple persons to own a part of the asset.

It is likely that a bare tokenisation event is not a value-added supply for consideration and would be outside the scope of VAT. However, if any explicit fees are charged for services provided, it is likely that VAT would apply.

Services associated with the formation of tokens

The concept of “token generation” generally refers to the service of generating (or forming) a token on a DLT system on behalf of the owner of the underlying asset that is being tokenised.

The VAT treatment of any such generation (or formation) services will likely depend on the nature of the underlying asset that is tokenised and whether or not an explicit fee is charged for those services.

Token custody services

Depending on the context and the regulatory scheme, token custody services would usually cover services associated with holding tokens on behalf of clients/owners or with how the tokens are recorded on the DLT system. These services are similar in some ways to custody services for other types of securities or assets, but exist against the backdrop of tokenisation.

The VAT treatment of token custody services may ultimately depend on the nature of underlying assets represented by the tokens. For example, would custody services that relate to tokenised shares, be VAT-exempt which would mirror the treatment of custody services in the traditional securities market. How would this compare to the custody of tokenised assets like artwork which you would expect to be taxable. Finally, if the custody services relate to both taxable and exempt assets, then would VAT apportionment be required?

Operating a token exchange

In a commercial and regulatory sense, operating a token exchange would fulfil the same function as a conventional exchange. The token exchange functions would provide a market - governed by rules - that would bring parties together and allow for token trades to take place.

Globally, crypto currency exchanges are typically viewed to be VAT-exempt, in line with the Hedqvist case⁶. Similarly, many types of services performed on a stock exchange are VAT-exempt. However, other market intermediaries facilitating the exchange of non-security assets are typically viewed as making taxable supplies.

Given that these exchanges may trade tokenised forms of a wide variety of assets, and subject to individual jurisdiction regulators' specific tax policies in this area, the VAT treatment may be expected to mirror the treatment for the exchange of the underlying asset. This could mean that the VAT liability would depend on the nature of the underlying asset being traded: VAT- exempt if the underlying asset is a security, and subject to VAT in the case of other underlying assets. If both types of underlying assets are being traded, a VAT apportionment may be necessary based on a reasonable method or an approved industry protocol.

6. Case C-264/14 Skatteverket v David Hedqvist [2015] ECLI:EU:C:2015:718
<https://curia.europa.eu/juris/liste.jsf?num=C-264/14>

7. EU Commission Working Paper No. 1060, VAT Committee WP1060 "Question concerning the application of EU VAT provisions - Initial VAT reflections on non-fungible tokens"
<https://circabc.europa.eu/rest/download/7d1ef2eb-b820-4866-a155-785e2373fb80?ticket=>

Transfer of tokenised assets

The VAT implications of transferring tokenised assets could be expected to depend on the nature of the underlying assets⁷. Similarly, when a token, representing a fraction of the ownership is transferred, the VAT treatment would also be expected to follow the nature of the underlying assets.

Fractionalised assets and tax administration

The VAT treatment of the revenue derived from the underlying asset (e.g., rent in the case of real estate or royalties in the case of art) would likely depend on the underlying services provided.

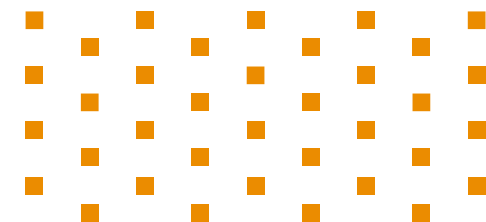
In the case of a fractionalised asset, this raises the question which party (or parties) should be responsible for accounting for VAT on the revenue generated with the fractionalised asset. In principle, the fractionalised owner should be liable for VAT for its portion of the revenue derived from the underlying asset. This approach may lead to administrative challenges (e.g. many potential taxpayers) and inconsistent VAT treatment. In the latter case, if a private individual holds a token representing a fraction of an asset the income may not be generated in the course of a business or taxable activity. Furthermore, fractionalised ownership of a moveable asset

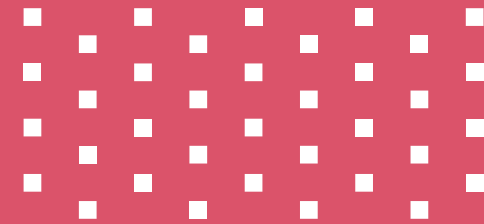
(such as art) may pose additional challenges when the asset is moved between jurisdictions.

To tackle these challenges, regulators may need to look at making another party (e.g. the token issuer or token exchange operator) responsible for accounting for VAT on the income generated from the underlying asset.

Cessation events

The owner of a token may seek to cancel the token, for example, if the underlying asset no longer exists or the token is no longer functional. A starting point could be that the cancellation of digital tokens in such situations is outside the scope of VAT, as there is no supply for consideration or any value-added activity. However, this may depend on the circumstances and the situation may be different, for example if the cancellation of the token results in a transfer of the ownership of the underlying asset.





Other challenges

A key challenge is determining the **place of supply** of the various services (generation, custody, transfer, valuation, validation, etc.) provided in connection with the tokenisation of RWAs. If some services, such as generation, are provided by electronic means they will likely qualify as electronically supplied services - subject to VAT in the place of location of the customer/recipient. In other cases, such as the tokenisation of real estate (or other assets with special place of supply rules), the place of supply of the underlying services may be considered the place where the real estate is located. Again looking to the underlying asset is likely to be important in determining the VAT treatment.

Conclusions

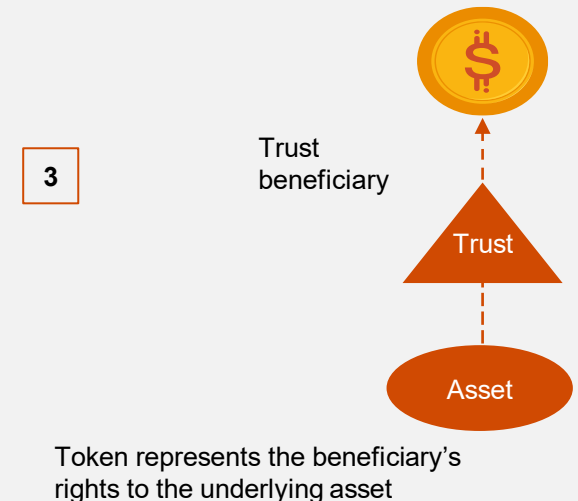
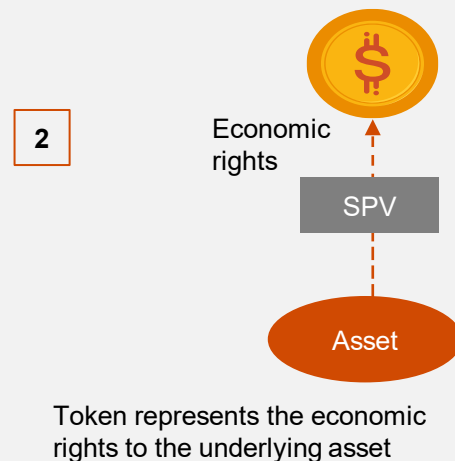
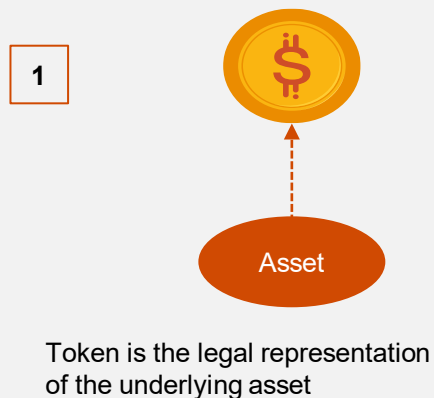
Tokenisation will create new financial opportunities to acquire an interest in RWAs. Tax authorities around the world are beginning to pay closer attention to digital assets, including tokenised RWAs. Acquiring, holding and disposing of tokens is expected to be taxable in most jurisdictions, unless transactions in the underlying asset would otherwise be exempt. However, there is uncertainty as to whether revenue authorities will see returns linked to tokens in the same way as holding the real-world asset directly. This space should be watched and specific guidance and advice on local tax laws that might be applicable to transactions involving tokens should be sought.

Tokenisation of RWA can come in many forms, with a number of structures being potentially feasible as the technology and ecosystem matures. Depending on the type of asset, the token can be minted to directly represent the relevant asset, or to represent the economic rights to the asset through a special purpose vehicle (SPV) or even through a trust. Given the variations and complexities, it will be important to assess each tokenisation on its own merits when determining tax treatment in accordance with local tax laws and practice.



Life cycle of various forms of tokenised RWA

| Token generation | Operation | Token redemption |
|--|--|--|
| <ul style="list-style-type: none"> • How is the token in the hands of the first owner characterised for accounting and tax purposes? • How are the ownership and/or transfers expected to be reported / reflected in the underlying structure's entity level documentation? • Are there any reporting obligations under the relevant regulatory framework (e.g. CARF)? • Are there transfer restrictions in respect of the token? • Is the formation event a value added supply? What if a specific fee is charged? | <ul style="list-style-type: none"> • How are transfers administered legally? • Are there any reporting obligations under the relevant regulatory framework (e.g. CARF)? • How is the token characterised in the hands of the secondary token holder for accounting and tax purposes? • How are appreciations and declines in value accounted for, and what is the corresponding tax treatment? • What are the tax reporting implications to the underlying structure? • Will tax treaties cover distributions / returns to token holders of a different jurisdiction? • Should taxation be determined based on the nature of the underlying asset? • How are different types of services and activities – such as token generation, custody, validation, token exchange operations and token transfer – treated for indirect tax purposes? | <ul style="list-style-type: none"> • What legal protections are there to protect the return of capital? • What are the tax implications for the token holders in respect of any gain, loss or liquidating distribution upon redemption? • Is the redemption of a token outside the scope of indirect tax? |



3. CBDCs vs. tokenised bank deposits vs. stablecoins

Many of the often-stated benefits of real-world-asset tokenisation (i.e., faster settlement, built-in reconciliation, the creation of programmable assets with smart contract capabilities embedded) can only be realised properly with the support of programmable payments and an environment where the settlement technology layer is compatible and integrated with the core asset technology layer.

For this reason, there has been an immense interest in various forms of tokenised payment and settlement, including stablecoins, tokenised bank deposits and CBDCs which may, to a greater or lesser degree, provide the mean of transferring economic value in such systems.

According to the PwC Global CBDC Index and Stablecoin Overview 2023⁸, more than 100 central banks around the world are currently working on the research and assessing CBDC implications for both wholesale and retail use cases at varying levels of sophistication and stages of development .

On the commercial banking side, large international banks are exploring how bank deposits can be issued in tokenised form so that they can be traded and exchanged in a more efficient manner. Similarly, asset managers are exploring whether tokenised money market funds

can be used as a means of exchange, or as collateral in trading transactions.

Separately, stablecoin regulations are starting to materialise in a number of jurisdictions which will increase the trust and the credibility of stablecoins. We are expecting to increasingly see stablecoins being issued in multiple currencies by both bank and non-bank actors.

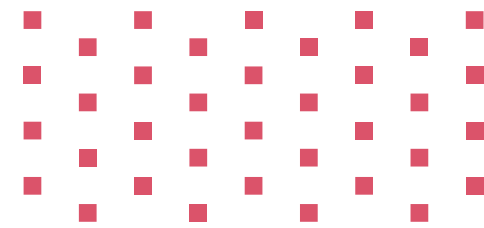
Against the above, it is our view that these new forms of tokenised payment and settlement will make up an increasingly large share of payments in the coming years.

From a tax perspective, there are some differences between these instruments which may be manifested depending on the transactions involved. These need to be considered and the current tax rules may not provide sufficient clarity at this stage. Taxation in general should not lead to distortions in the market. We will explore some of these questions that need to be answered below.

As these asset classes are relatively new from a tax perspective, we anticipate that as the governing legal regulations are codified, the supporting tax rules would follow, facilitating the accounting and tax treatments as well as the corresponding reporting required.



8. PwC Global CBDC Index and Stablecoin Overview 2023
<https://www.pwc.com/gx/en/financial-services/pdf/pwc-global-cbdc-index-and-stablecoin-overview-2023.pdf>



Examples of situations where the tax treatment will need to be given special consideration based on local tax law include:

- How do the tax rules on borrowing and lending apply to these new forms of payment?
- How do we account for the interest arising from the lending of these assets?
- How are payment and settlement transactions involving these assets treated for tax purposes?
- Do minor differences in the value of a stablecoin against its currency peg result in taxable gains and losses that need to be tracked and reported?
- Are holdings and transactions involving these assets caught by tax reporting rules designed to capture non-reporting of crypto currency transactions.

We explore each of these in more detail in the infographic below.

| | CBDCs | Bank deposit token | Stablecoin | Tokenised money market fund |
|---------------------------------------|--|---|---|---|
| Issuer | Central bank or equivalent by jurisdiction | Commercial bank | Commercial bank / commercial enterprise | Fund vehicle |
| Character | Legal tender | Subject to relevant regulations | Subject to relevant regulations | Subject to relevant regulations |
| Potential accounting treatment | Cash | Financial instrument / intangible asset | Financial instrument / Intangible asset | Financial instrument / Intangible asset |
| Revaluation differences | Not applicable | Despite assumption these are redeemable at par from issuing bank, revaluation differences in secondary market may emerge if these are freely tradable due to changes in credit quality of the issuer or due to specific rights to interest associated with holding the token. | Yes as these are freely traded around a peg so you may be subject to gains / losses around the peg. Assume that such gains / losses will be minimal as stablecoin is assumed to be redeemable at par for fiat currency from the issuer. | Yes as these are freely traded across markets as fund interests with gains / losses arising from the underlying investments, attractiveness, etc. |



How do the tax rules on borrowing, lending and treatment of interest apply to these new forms of payment?

- In some cases, domestic tax rules, may reference concepts (such as bank accounts) that are not applicable to new tokenised payments. Given that digital asset wallets are often jurisdiction agnostic, there may be issues and guidance needed to determine the source or situs of interest income.
- Interest expense deductions often involve specific rules and limitations outside of being attributable to a trade or business and incurred in the production of taxable income. These limitations may range from thin capitalisation to consideration of the borrower's financial performance, or to interest rate and debt caps among others. Consideration should be given to whether these rules are compatible with the lending that has taken place.
- In certain jurisdictions, cross border interest remittance is subject to withholding tax. Given that wallets are jurisdiction agnostic, how would that impact the withholding tax rules? And, to the extent that withholding tax applies, will preferential withholding tax rates from tax treaties be available for the lending of tokenised forms of payment?
- With reference to the model convention and commentary set out by the OECD, some considerations should be given as to whether those rules can be interpreted in the context of these digital assets.
- In the context of indirect and transactional taxes, would this lending and borrowing be subject to VAT (for example) for being a taxable supply and/or stamp duty for having effected a contract? Are there exceptions for small-value transactions or those involving regulated products?

How do we account for the interest arising from the lending of these assets?

- In a lending and borrowing transaction, the return should intuitively be considered interest income in the lender's hands and the corresponding payment as interest expense by the borrower.
- Interest is commonly defined as money paid regularly at a particular rate for the use of money lent, or for delaying the repayment of a debt.
- If we take the definition of money as any generally accepted medium of exchange, then we must inevitably consider its legality and what is considered generally accepted. There does not appear to be a strong contender against the interest treatment from an accounting perspective. Nonetheless, from a tax perspective, it is possible that tax authorities contend that the tokenised asset is instead an interest-bearing debt claim (for example, a promissory note). This uncertainty can lead to different tax implications in payments, expenditures, etc.

How are payment and settlement transactions involving these assets treated for tax purposes?

- If the holder of the above assets was to use them for purchases or settlement of expenses, while there would appear to be a clear view of a mere payment taking place for CBDCs, would the exchange of stablecoins for widgets be considered a purchase or a barter transaction under the local VAT or GST regime?
- If the stablecoins used were acquired at a different point in time with fiat and have since fluctuated in value, tax considerations should also be given to the realised exchange and/or revaluation differences. As with the case of lending and borrowing, the direct and indirect taxation implications could vary, and the level of variance would be exacerbated by the jurisdictions involved.
- Between the transacting parties, after the accounting and tax treatments have been properly reviewed, there remains the reporting obligations arising from the transactions throughout the year of assessment (or equivalent by jurisdiction).
- Given that such gains and losses on tokenised forms of payment will often be minimal, tax authorities may also consider whether it is desirable to provide an administrative safe harbour on reporting such gains and losses (possibly within certain limits). Tax payers, particularly individuals, may well find tracking these gains/losses on all of their expenditures difficult.

What about unrealised differences in the pegging of stablecoins and tokenised bank deposits?

- As CBDCs are envisaged to be legal tender and represent a direct claim against a central bank, there should not be any differences vis a vis cash in that same currency. We would expect the treatment of which from a reporting standpoint to be generally consistent with fiat.
- For stablecoins, however, depending on how their pegs against the relevant currencies are structured and the market liquidity and ease of issuance and redemption, we would expect there to be some small deviation from the market prices vs the peg currency, which may result in a mark to market difference being recognised.
- For bank deposit tokens, the situation may be more complex depending on the exact form of the tokenised deposit, but if we assume that such a token would represent a tradeable claim against a specific financial institution, then one may expect that there could be small differences in market prices between those issued by different institutions, based on factors such as the credit worthiness of that institution or the interest rates that such tokens may attract which may mean that such tokens do not automatically trade at par value in all circumstances. Similar issues would likely arise on tokenised money market funds. We would imagine that the tax implications for the fluctuations above to be somewhat congruent with the underlying digital asset. However, clarity in this regard should be provided so as to prevent unintended tax consequences distorting the spirit of these digital assets.

Summary

In conclusion, we have witnessed three major trends and developments in digital assets summarised as below.

Increasing regulation of brokers and intermediaries, custodians and other market participants

Spearheaded by the OECD to foster transparency and exchange of information for tax purposes, the CARF is expected to interact with CRS and impact market players by the type(s) of crypto-asset they are involved in. Domestic implementation will likely be introduced incrementally as tax authorities grapple with the requirements while being mindful of their domestic business communities. Tax technology infrastructure should be revisited by market players to address the information reporting obligations and consider how the latest technologies such as generative AI can help bridge gaps.

Tokenised real-world assets (RWAs)

From a commercial standpoint, the tokenisation of RWAs have varying legal and tax implications that are dependent on the rights and obligations associated with the token as well as the underlying assets in the context of the relevant jurisdiction(s). Being a relatively new industry, certain conventional characteristics from a tax perspective are challenging to identify (e.g. place of supply, counterparty jurisdictions, etc.). As such, transactions should be reviewed on a case-by-case basis to ensure that the legal and tax implications are consistent with management expectations.

Regulation of stablecoins, along with wider consideration of other forms of tokenised money (bank deposit tokens and Central Bank Digital Currencies (CBDCs) and even tokenised money market funds)

In terms of tax implications, there has been relatively limited guidance from tax authorities to date on how tokenised forms of payment and settlement interact with tax rules around borrowing and lending, the payment of interest as well as on the implications of using tokenised assets for payment and settlement. Currently, absent specific guidance, many jurisdictions with principle-based tax rules are applying them on a case-by-case basis. As these assets are being adopted to facilitate day-to-day payments, addressing the insignificant gains and losses arising from the growing number of transactions will be useful. We are hopeful that such guidance and simplification in the future can alleviate the obligation of tracking and reporting gains and losses from each transaction done through tokenised payments (e.g. stablecoins) to better support the growing industry.

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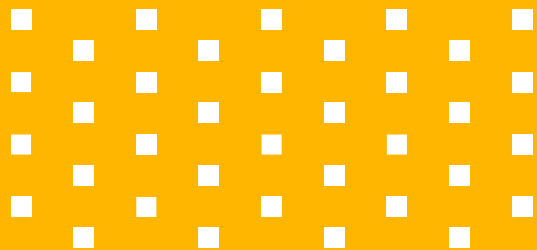
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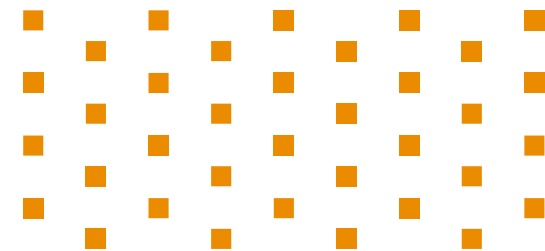
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4. Worldwide crypto tax summaries



List of jurisdictions



| | | | | | | | |
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Angola

Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | No. In July 2023, Angola's Council of Ministers drafted a law to regulate crypto-asset mining activities, aiming to prohibit miners other than the Angolan National Bank ("BNA") to operate in Angola. However, no guidance has been issued on the taxation of crypto assets. |
| 2. What is the scope of taxability? | Not applicable. |
| 3. What are the direct tax implications? | <p>Currently, there are no guidelines or legislation that imposes any direct tax on crypto assets and no direct tax legislation is foreseen in the near future.</p> <p>The Investment Income Tax ("IAC"), at a rate of 15%, due by the holders of the respective income, whether natural persons or legal entities, would be the most likely tax to be due on income from the sale of crypto assets. The income could be subject to corporate income tax, at a rate of 25% if the sale of crypto assets is considered to be a company's regular business activity.</p> |
| 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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Angola

Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | No. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | NA |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | Not defined. NFTs likely will be taxed as services. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Angolan law does not provide for the treatment of the use of cryptocurrency for payment. Angola recently adopted VAT and the Angolan Tax Authorities have not yet issued guidelines. |
| 5. Are there any other applicable exemptions relating to crypto assets? | No. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | The service provider / seller generally is liable for the payment of VAT on the provision of services. The VAT code provides for joint liability only for intermediaries (such as digital marketplaces). |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Not at this stage. |

Angola

Indirect Tax (Continued)

| Question | Response |
|--|--------------------|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage. |
| 10. Are there specific rules for virtual events? | Not at this stage. |

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Direct Tax

| Question | Response |
|---|---|
| <p>1. Is there tax authority guidance or direct tax law on cryptocurrency?</p> | <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 directly in the taxation of 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 private 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><i>Proposed legislation</i></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> <p>1. On 3 February 2023, Treasury released its Token Mapping Consultation Paper (Paper) to identify how crypto assets and related services should be regulated. It sought feedback on the Paper which currently is being reviewed by the government and legislation expected in 2024.</p> <p>This initiative represented a fundamental phase in the Australian Government's multi-stage reform agenda aimed at establishing proper regulatory frameworks for the crypto sector.</p> <p>Token mapping is designed to build a greater understanding of crypto assets within the regulatory context of Australian financial services by grouping types of crypto assets together based on their code and technological features. This initiative will delve into how the existing regulations pertain to the crypto sector and will help shape future policy decisions in developing an appropriate regulatory framework.</p> <p>2. On 29 March 2023, the Digital Assets (Market Regulation) Bill 2023 (Bill) was introduced into Parliament.</p> <p>The Bill proposed:</p> <ol style="list-style-type: none"> a. digital asset exchange licensing and requirements; b. digital asset custody licensing and requirements; c. stablecoin issuance licensing and requirements; and d. disclosure requirements for facilitators of central bank digital currencies in Australia. <p>However, the Economics Committee (Committee), on 6 September 2023, recommended the bill not be passed by the Senate.</p> <p>The Committee recommended that "the Australian Government continue to consult with industry on the development of fit-for-purpose digital assets regulation in Australia".</p> |

Direct Tax (Continued)

| Question | Response |
|---|---|
| 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 more than 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>Cryptocurrency held by a cryptocurrency investor as a hobby 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 a 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 a 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> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>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 generally would be on revenue account, where these rules apply. There are still several interpretative issues that need to be resolved in relation to when and how this regime might apply to cryptocurrencies.</p> |
| 5. What are the tax compliance/reporting requirements? | <p>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).</p> |

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Indirect Tax

| Question | Response |
|--|--|
| <p>1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency?</p> | <p>Yes – A New Tax System (Goods and Services Tax) Act 1999 (the GST Act) covers the positions and sets out the rules.</p> <p>For completeness, the Australian Taxation Office (ATO) recently released new public guidance in relation to the GST implications for:</p> <ul style="list-style-type: none"> -Digital currency in general; -Digital currency trading; -Digital currency exchange (DCE) interactions; and -Digital currency as a form of payment <p>While the recent guidance released by the ATO is reflective of the straight application of existing GST principles, we expect further guidance to be published that will address more nuanced arrangements and transactions in the foreseeable future.</p> |
| <p>2. If “yes”, what is the position for GST / VAT / ESS or equivalent?</p> | <p>The sale of digital currency is an input taxed sale for GST purposes, meaning that:</p> <ol style="list-style-type: none"> (1) no GST is paid on the sale of digital currency; and (2) GST credits cannot be claimed for the GST included in the price paid for any purchases to make those sales. <p>Digital currency is defined in the GST Act as digital units of value that:</p> <ol style="list-style-type: none"> (a) are designed to be fungible; and (b) can be provided as consideration for a supply; and (c) are generally available to members of the public without any substantial restrictions on their use as consideration; and (d) are not denominated in any country's currency; and (e) do not have a value that depends on, or is derived from, the value of anything else; and (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: <ol style="list-style-type: none"> (i) holding the digital units of value; or (ii) using the digital units of value as consideration; <p>but does not include:</p> <ol style="list-style-type: none"> (g) money; or (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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent?</p> | <p>NFTs are not yet specifically defined under Australian GST law.</p> <p>However, under the GST rules, an NFT generally does not 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> |

Indirect Tax (Continued)

| Question | Response |
|---|--|
| <p>4. Treatment of NFTs sold in exchange for cryptocurrency?</p> | <p>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.</p> <p>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.</p> <p>In working out the value of the digital currency received as consideration, you may use the Australian Dollar exchange rate from a digital currency exchange or website on the relevant conversion day that applies in your circumstance (i.e., receipt of any part of the payment, transaction date, invoice date, etc.).</p> |
| <p>5. Are there any other applicable exemptions relating to crypto assets?</p> | <p>Yes, a crypto asset may be input taxed (exempt) where it falls within the definition of other financial services (for example, a financial derivative)</p> |
| <p>6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes?</p> | <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 electronic 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. |
| <p>7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs?</p> | <p>Marketplace.</p> |

Australia

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Where a supply of an NFT is made from outside Australia to an Australian consumer through the marketplace (where it meets the definition under section 84-70 of the GST Act), the operator of the marketplace has the obligation to account for GST on the supply of the NFT. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | <p>While there are currently no specific De-Fi rules under the existing GST law, the Board of Taxation (an Australian Government Agency) is currently reviewing the tax treatment of digital assets and transactions in Australia.</p> <p>As part of this review, the Board of Taxation noted international policy considerations in respect of De-Fi arrangements, including financial smart contracts, decentralised applications and other protocols used to automate De-Fi arrangements.</p> <p>To this end, we expect to see recommendations to establish policy frameworks for the GST treatment of De-Fi arrangements in the foreseeable future.</p> |
| 10. Are there specific rules for virtual events? | Not at this stage. However, there is a need to consider the ordinary GST 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? | 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. In addition, the Austrian Income Tax Guidelines (issued by the Austrian Ministry of Finance) contain clarifications on the legal provisions. |
| 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 (NFTs), 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 for individuals:</p> <ul style="list-style-type: none"> • Capital gains (irrespective of the holding period) are 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 the 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 acquisition 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 conventional capital assets can be credited against income from cryptocurrencies. Losses that are 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. Capital gains are not taxable if the cryptocurrencies are sold after the one year’s holding period. • Capital losses realised within one year can be credited only against speculative income. • The swap of cryptocurrencies is a taxable event, if the swap 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> |

Austria

Direct Tax (Continued)

| Question | Response |
|--|--|
| 4. Are there any other relevant/noteworthy tax considerations? | Austria is one of the first countries to introduce a withholding tax deduction on income from cryptocurrencies. From 1 January 2024 Austrian services providers involved in the settlement of cryptocurrency-transactions (such as crypto exchanges), are required to withhold the 27.5% tax 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 prior calendar year. There are no specific reporting and compliance rules for cryptocurrencies. |

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Indirect Tax

| Question | Response |
|--|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent 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 position for GST / VAT / ESS or equivalent? | 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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No. General VAT principles apply. NFTs transfer digital assets (e.g., digital artworks). The transfer of NFTs qualifies as a supply of services for VAT purposes. VAT exemptions may apply. VAT treatment is not specifically defined in VAT law or official VAT Guidelines. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | See above – NFTs qualify as a supply of services; cryptocurrency is used as a means of payment in this case and is treated as such. |
| 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No legal definition in VAT law. Based on general understanding, a marketplace would be a “place” where one could offer goods or services. An online marketplace would be a trading platform where one can offer goods/services without requiring significant human input. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent 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 any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No specific guidelines in VAT law or guidelines. |

Austria

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Other than that laid out above – No. |
| 10. Are there specific rules for virtual events? | General rules on remote services / ESS services have to be considered. |

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Belgium

Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>There is no specific legislation regarding the taxation of crypto assets in Belgium and the Finance Minister confirmed in 2021 that the general tax law principles apply. In order to obtain legal certainty about the tax treatment an advance ruling can be obtained from the Belgian Ruling Commission. In this regard, the Belgian Tax Authorities published a questionnaire to determine the tax treatment of capital gains related to the sale of cryptocurrencies.</p> <p>Note, however, that there is some specific guidance on how to deal with cryptocurrency from a Belgian GAAP perspective. In Belgium, the tax position follows local GAAP (unless the tax law were to deviate from it). As such, this guidance indirectly influences the tax outcome.</p> |
| 2. What is the scope of taxability? | <p>Corporate income tax Any income derived from cryptocurrency activities by a Belgian corporate entity or permanent establishment of a foreign entity is subject to the regular Belgian corporate income tax system. Belgian entities are subject to tax on their worldwide income.</p> <p>Personal income tax Individuals subject to Belgian personal income tax are taxed on their worldwide income.</p> |
| 3. What are the direct tax implications? | <p>Corporate income tax The statutory tax rate for large businesses equals 25%. Specific regimes (e.g., patent box) may apply depending on the type of activities performed. Crypto losses may be deductible for tax purposes in line with the Belgian GAAP treatment.</p> <p>Personal income tax The applicable tax rate depends on the nature of the income. Income from cryptocurrency that arises from the normal management of private assets (e.g., someone who occasionally buys and sells cryptocurrencies) is exempt from Belgian taxation.</p> <p>Income derived from activities related to cryptocurrencies going beyond the normal management of private assets will be taxed at either (i) a separate rate of 33% or (ii) at progressive rates going up to 50% in case the income is obtained in the context of a professional activity. Proportional municipality taxes may apply in addition to these federal taxes.</p> <p>Each situation requires a case-by-case analysis, but the following elements are relevant: the frequency of cryptocurrency transactions, the amount invested, the equipment used, etc.</p> <p>Notably, the Belgian Tax Authorities regard income from mining activities generally as professional income taxable at progressive rates since it generally requires significant investment in both hardware and software, as well as a specialised IT knowledge.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>The Belgian government is currently of the opinion that no specific rules are needed regarding the tax treatment of income from cryptocurrencies. It remains to be seen whether this position will be maintained given the increased number of questions regarding the tax treatment of income from cryptocurrency. Absent specific guidance or legislation, companies and individuals tend to seek rulings in order to obtain certainty on how these general rules must be applied to specific fact patterns involving cryptocurrencies.</p> |

Belgium

Direct Tax (Continued)

| Question | Response |
|--|---|
| 5. What are the tax compliance/reporting requirements? | <p>Since no specific legislation applies regarding the tax treatment of cryptocurrencies the general filing deadlines apply.</p> <p>Corporate income tax There is a filing deadline for Belgian corporate entities. The CIT return must be filed, at the latest, on the last day of the 7th month following the end of the FY. Extensions may apply in certain circumstances.</p> <p>In addition, entities subject to corporate income tax must report payments to persons (both natural and legal persons) located in tax havens if the total amount to the tax haven concerned amounts to EUR 100.000 or more. Failure to report such payments results in non-deductibility of the payments.</p> <p>Personal income tax</p> <p>There is a filing deadline of 30 June of the year following the end of the calendar year. Extensions may apply in certain circumstances.</p> <p>In addition, individuals must report in their tax declaration whether they hold a bank account abroad. If cryptocurrencies are held by a foreign banking, exchange, credit or savings institution the reporting obligation is in principle applicable.</p> |

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Belgium

Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | There is no specific law, but some guidance is provided by the tax administration on the interpretation of the Belgian VAT Code for cryptocurrency. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>Following the European case law (C-264/14 – David Hedqvist), the Belgian tax authorities consider that the exchange of cryptocurrency can be exempt from VAT, when:</p> <ul style="list-style-type: none"> (i) The parties consider cryptocurrency as an alternative method of payment;. (ii) To the parties involved, it has no other purpose than payments. <p>(PQ n° 705 of Emmanuel Burton dd. 3 November 2021)</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | There is no specific definition of NFT in the Belgian VAT legislation. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>No specific legislation – there is need for further analysis of whether the NFT is a service or a supply of goods.</p> <p>Secondly, an ‘exchange rate’ needs to be determined for the cryptocurrency in order to determine the taxable amount of the supply of goods/services.</p> |
| 5. Are there any other applicable exemptions relating to crypto assets? | Cryptocurrency can be exempt from VAT in application of article 135, 1, e of the VAT Directive/ article 44, § 3, 9° VAT Code if it is to be recognised as legal tender (see question 2 for the conditions). |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No specific definition. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | <p>Depends on the circumstances – in certain circumstances yes, but the parties to the transaction will have to account for VAT. The marketplace is accountable for the VAT only when:</p> <ul style="list-style-type: none"> (i) There is an importation in the EU by a non-EU seller of goods with a value of max. EUR 150; or (ii) The goods are sold by a non-EU vendor to a EU consumer, but are already in the EU at the moment they are sold. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No. |

Belgium

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No. |
| 10. Are there specific rules for virtual events? | There are no specific rules. However, the VAT commentary does provide some guidance on where a certain event is deemed to take place and thus which VAT rules should be applied. |

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Bulgaria

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? | Based on published rulings – crypto currencies are seen as financial assets different from money |
| 4. Are there any other relevant/noteworthy tax considerations? | As a general rule the f/x difference on fiat currency is recognised on the spot, while for crypto currencies any f/x differences are recognised at the moment of disposal |
| 5. What are the tax compliance/reporting requirements? | <ul style="list-style-type: none">- Standard accounting requirements (Annual Financial Statement once a year)- For CIT – standard reporting requirements – CIT return is filed once a year |

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Bulgaria

Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes – there is limited local guidance plus a very important court decision of the European Court of Justice (ECJ) number C-264/14 which is respected by all EU countries, including Bulgaria |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | The sale of cryptocurrency is seen as a VAT exempt supply, based on the above mentioned ECJ decision. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | Non-fungible tokens (NFTs) are not defined in Bulgarian tax legislation. In our view these would be seen as intangible rights which are generally subject to 20% VAT. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Barter transaction but the transfer of the NFT would be seen as taxable while the transfer of the cryptocurrency would be seen as exempt. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Yes - options over cryptocurrency and brokerage in respect of cryptocurrency transactions should be VAT exempt (though no detailed practices exist). |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Yes, art. 14a from VAT Act An electronic interface shall be a device or a program that allows communication between: - two autonomous systems, or - a system and a final recipient, and it may cover a website, portal, platform, interface for applications and other similar devices. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Generally the supplier (seller) is liable for VAT. Only in the case when the transaction is seen as an e-service (highly automated with minimum human intervention) and no other supplier is mentioned, the marketplace is liable for VAT |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Not aware of such. |

Bulgaria

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage. |
| 10. Are there specific rules for virtual events? | No. However, there is a need to consider the VAT rules for electronic services provided via marketplaces. |

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Cabo Verde

Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | No. However, while there is no specific guidance or discussion on the taxation of crypto-assets, Law n.º 30/X/2023, as of 21 June 2023, provides guidance in respect of crypto assets definition and crypto asset services, as well as digital banks. |
| 2. What is the scope of taxability? | Not applicable. |
| 3. What are the direct tax implications? | No direct tax implications guidance or tax law is in force. Notwithstanding, it should be noted that the sale of crypto assets could fall under Personal Income Tax for individuals, at the general progressive rates, and Corporate Income Tax for companies, at the general tax rate of 22.44%. |
| 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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Direct Tax

| Question | Response |
|--|---|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>Yes. The Canada Revenue Agency (CRA), the 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").</p> <p>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</p> |
| 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 business-like 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 |
|--|--|
| <p>1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency?</p> | <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>The legislation relating to cryptoasset mining activities generally denies input tax credit claims by miners but 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 are GST/HST taxable in which case the miner is entitled to claim input tax credits.</p> |
| <p>2. If “yes”, what is the position for GST / VAT / ESS or equivalent?</p> | <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 '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;' |
| <p>3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent?</p> | <p>NFTs are not defined in the Excise Tax Act.</p> <p>NFTs are generally subject to GST 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.</p> |
| <p>4. Treatment of NFTs sold in exchange for cryptocurrency?</p> | <p>Taxable for Canadian GST/HST purposes subject to possible zero-rating for NFTs sold to unregistered non-residents.</p> |
| <p>5. Are there any other applicable exemptions relating to crypto assets?</p> | <p>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).</p> |

Indirect Tax (Continued)

| Question | Response |
|---|--|
| <p>6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes?</p> | <p>Yes, the Excise Tax Act contains a definition of a 'specified distribution platform' and a 'distribution platform operator' as follows: Specified distribution platform means a digital platform through which a person facilitates the making of specified supplies by another person that is a specified nonresident supplier or facilitates the making of qualifying tangible personal property supplies by another person that is not registered under Subdivision D of Division V 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. <p>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. |
| <p>7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs?</p> | <p>Marketplace.</p> |
| <p>8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset.</p> | <p>Not at this stage.</p> |
| <p>9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance?</p> | <p>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.</p> |
| <p>10. Are there specific rules for virtual events?</p> | <p>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.</p> |

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Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>Yes – tax authority guidance issued through 17 rulings (first ruling issued in 2018).</p> <ul style="list-style-type: none"> - Tax authority Q&A on taxation of cryptocurrencies also available. - No specific direct tax law on cryptocurrency. |
| 2. What is the scope of taxability? | <p>Key criteria in definition of VDA: The Chilean IRS has not issued a ruling on the specific definition of a VDA. It has issued rulings on specific types of VDAs, as follows:</p> <p>In the first ruling the tax authority utilised the following definition of bitcoin: “digital or virtual asset, supported by a single digital record called blockchain, deregulated, disintermediated and not controlled by a central issuer, whose price is determined by supply and demand.”</p> <p>This year the Chilean IRS also utilised a broad definition of NFT: “In very general terms, it can be understood that they consist of digital certificates of authenticity that, through blockchain technology, are used to record the ownership of an asset.”</p> |
| 3. What are the direct tax implications? | <p>In the hands of seller: <u>Income from transfer of VDA</u> taxable under the general Chilean Income Tax regime, this is First Category Tax (Chilean CIT) and Global Complementary Tax or Additional Tax (Chilean WHT). Capital gain determined by deducting from the sale proceeds the acquisition cost indexed by inflation. Gas fees are not considered part of the acquisition cost, but are deductible as expenditure.</p> <p>In the hands of recipient: <u>Airdrop:</u> The Chilean IRS has interpreted that acquisition cost is nil. <u>Mining:</u> Acquisition cost equals the average trading / market value in CLP that such VDA had the day it was received in return for mining.</p> <p>In the hands of Exchanges/ Brokers (including Foreign Exchanges/ Brokers): No specific withholding or tax applied over VDAs. Their income for intermediation is subject to the general Chilean income tax regime.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <ul style="list-style-type: none"> - Valuation rules: as referred to above, specific rules for valuation in the case of airdrop and mining. - Cost flow method: In principle FIFO however Chilean IRS has also interpreted that weighted average cost can also be applied. - Tax losses: can be deducted and carried forward. |
| 5. What are the tax compliance/ reporting requirements? | <p>In the hands of seller: - Filing annual Income-tax return to determine income tax result derived from capital gains / losses on VDA transactions</p> <p>In the hands of Exchange/ Broker: - Yearly Form 1891 that considers digital assets within the scope of reporting - Filing annual Income-tax return</p> |

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Indirect Tax

| Question | Response |
|--|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | <p>Yes – tax authority guidance issued through 17 rulings (first ruling issued in 2018).</p> <ul style="list-style-type: none"> - Tax authority Q&A on taxation of cryptocurrencies also available. - No specific indirect tax law on cryptocurrency nor any mention on Chilean VAT Law (Decree Law No. 825-1974). |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>Cryptocurrency is excluded from VAT provided that it is not a corporeal asset.</p> <p>Chilean IRS has not issued a ruling on the specific definition of a VDA. It has issued rulings on specific types of VDAs, as follows:</p> <p>In the first ruling the tax authority utilized the following definition of bitcoin: “digital or virtual asset, supported by a single digital record called blockchain, deregulated, disintermediated and not controlled by a central issuer, whose price is determined by supply and demand.”</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | <p>Not in Chilean VAT Law.</p> <p>Only through a ruling (No. 1422-2023) Chilean IRS stated that: “In very general terms, it can be understood that they consist of digital certificates of authenticity that, through blockchain technology, are used to record the ownership of an asset.”</p> |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>No specific pronouncement on by Chilean IRS.</p> <p>Based on other rulings on VDA issued by Chilean IRS, being that NFTs are also not corporeal goods, it is reasonable to sustain that no VAT on the sale of NFT.</p> |
| 5. Are there any other applicable exemptions relating to crypto assets? | <p>No.</p> |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | <p>Chilean VAT Law does not contain a definition of marketplace.</p> <p>Chilean IRS has included a definition, by way of illustration of marketplace in Circular Letter N° 42-2020 which refers to ESS, stating that “By way of illustration, marketplaces or emarketplaces are online platforms, created and managed by a company that acts as a neutral third party to connect buyers and sellers of goods and services for the purpose of carrying out a commercial transaction.</p> |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | <p>As stated above, based on other rulings on VDA issued by Chilean IRS, being that NFTs are also not corporeal goods, it is reasonable to sustain that no VAT on the sale of NFT.</p> <p>Intermediation or brokerage is subject to VAT as VATable service.</p> |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | <p>No guidance.</p> |

Chile

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | One ruling (No. 3017-2022) and does not contain specific guidance on De-Fi. |
| 10. Are there specific rules for virtual events? | No. However, there is a need to consider the VAT on services. |

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Croatia

Direct Tax

| Question | Response |
|--|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>There is no specific legislation or published guidance on the tax treatment of cryptocurrency from corporate income tax perspective in Croatia.</p> <p>The Croatian Tax Administration (“CTA”) has only issued an opinion relating to trading with cryptocurrencies for individuals. They based their opinion on the CJEU C-264/14, indicating that cryptocurrencies trading is considered as a financial transaction and provided some additional guidance that potentially could be used as a reference for interpretation of corporate taxation as well.</p> |
| 2. What is the scope of taxability? | In the absence of specific legislation or guidance, cryptocurrencies are taxed under the general tax rules. Croatian entities are subject to corporate income tax on their worldwide income. As a result, any income derived from cryptocurrency activities is subject to Croatian corporate income tax. |
| 3. What are the direct tax implications? | <p>Any income derived from cryptocurrency activities will form part of the company’s overall income.</p> <p>The corporate income tax rates are 10% if taxpayer’s annual revenues are below EUR 1m, or 18% if this threshold is exceeded.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | Corporate income tax is based on the accounting rules, thus disclosure of cryptocurrencies has to be assessed primarily from the relevant accounting perspective (IFRS or local GAAP, whichever the company applies). |
| 5. What are the tax compliance/reporting requirements? | There are no specific tax compliance/reporting requirements for cryptocurrency. Taxpayers are required to submit their annual corporate income tax returns within four months after their year end. |

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Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes. The Croatian Tax Administration (“CTA”) issued an official opinion with respect to the mediation in the purchase and sale of a virtual currency “bitcoin” in 2015. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>In the official opinion, the CTA was dealing with the purchase and sale of the virtual currency – “bitcoin”, whether the transactions, including mediation with virtual currencies such as “bitcoin”, are exempt from VAT. The CTA concluded that, for the VAT purposes, transactions, including mediation with respect to the virtual currencies such as “bitcoin” should be VAT exempt.</p> <p>However, the CTA also mentioned in its opinion that depending on the judgment in case C-264/14, the VAT treatment of a virtual currency “bitcoin” in Croatia could be changed. Since the opinion of the CTA is from 2015, and in the meantime the judgment in the case has been passed, the VAT treatment from the judgment should be applicable.</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Please note that we do not have any practice with this respect. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Please note that we do not have any practice with this respect. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No. |

Croatia

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No. |
| 10. Are there specific rules for virtual events? | Please note that we do not have any practice with this respect. |

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Czech Republic

Direct Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>There are no special provisions regarding cryptocurrency in the Czech income tax law. Czech Tax Authorities and the Ministry of Finance issued information on cryptocurrency treatment providing basic guidance.</p> <p>The cryptocurrency is generally not viewed as a currency but as inventory.</p> |
| 2. What is the scope of taxability? | <p>The profit from cryptocurrencies is taxable when selling / exchanging it for fiat currency (EUR, USD, CZK etc.), or when exchanging it for another cryptocurrency. A cryptocurrency profit should also be calculated when purchasing goods or services for cryptocurrencies.</p> |
| 3. What are the direct tax implications? | <p>In case that the taxpayer (corporation or individual) realises taxable income:</p> <ul style="list-style-type: none"> • For individuals - the profit is subject to a progressive income tax of 15 / 23%. Further tax specifics would be dependent on whether an individual's cryptocurrency activities are treated as business income arising from entrepreneurial activities, rental income, or any other income. • For corporations – the profit is included in the general tax base of the corporation and subject to corporate income tax rate of 19%. <p>Tax deductibility of other related costs will be governed by standard tax-deductibility rules.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>Czech income tax of corporations and selected individuals (who are obliged to maintain accounting books) is based on CZ GAAP profit or loss result.</p> <p>For this reason cryptocurrency transactions need to be primarily properly treated from the accounting perspective.</p> |
| 5. What are the tax compliance/reporting requirements? | <p>There are no specific cryptocurrency reporting requirements for tax purposes.</p> <p>Taxpayers are obliged to fulfill their standard income tax obligations.</p> <p>Income tax returns must be filed within three months of the end of the tax period. If filed electronically, the deadline is postponed by one calendar month, if filed by a registered tax advisor, or if the taxpayer is subject to a mandatory accounting audit, the corporate income tax return filing deadline is extended to six months.</p> |

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Czech Republic

Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes – but a very general one respecting the EU approach. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | In line with CJEU C-264/14 Skatteverket, cryptocurrency is considered to be an alternative means of payment. Mining of cryptocurrency for the taxable person' purposes is considered as out of scope of VAT. Trading with cryptocurrency is considered as an economic activity generally VAT exempt. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | There is no guidance for NFTs in the Czech Republic. We assume that the NFT would be treated based on the underlying supply/asset. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | There is no guidance in the Czech Republic. We assume the cryptocurrency can be considered as a payment instrument for the NFTs representing certain underlying supply/asset. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Not aware of any. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | There is no specific definition of a “marketplace”, but the Czech VAT law provides for definition of the operator of an electronic interface. It is considered to be a person liable for tax who, through the use of an electronic interface, especially an electronic marketplace, platform, portal, or similar means, facilitates the delivery of goods or the provision of services in accordance with a directly applicable regulation of the European Union that specifies implementing measures for the directive on the common system of value-added tax. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Marketplace. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | N/A |

Czech Republic

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage. |
| 10. Are there specific rules for virtual events? | No – there is no Czech specific guidance. This topic is governed by the rules for ESS valid across the EU. |

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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 53%, 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> |

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Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent 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 position for GST / VAT / ESS or equivalent? | <ul style="list-style-type: none"> - Bitcoin transactions are VAT exempt. - Bitcoin mining was regarded in a specific case as falling outside the scope of VAT. - Sale of virtual currency for gaming was regarded in a 2016 case as subject to VAT. - Sale of virtual currency for betting was regarded in a 2022 case as subject to VAT. - Sale of virtual art was regarded in a 2023 case as subject to VAT. <p>There is no local case law on other non-traditional currency transactions (e.g. fiat, utility/security tokens/NFT).</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | N/A |
| 5. Are there any other applicable exemptions relating to crypto assets? | Please refer to the above. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | No |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No. |

Denmark

Indirect Tax (Continued)

| Question | Response |
|--|----------|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No. |
| 10. 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? | 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 guidance provides that income generated through cryptocurrency includes:</p> <ul style="list-style-type: none"> - a change in the price of cryptocurrency in the event of the sale or exchange of cryptocurrency into regular currency or another cryptocurrency; - paying for goods or services in cryptocurrency; - 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>With regard to the taxation of virtual income, the purchase or sales price or received income must 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 to be property.</p> <p>A transfer transaction resulting in a 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>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 subject to different taxation rules). Therefore, an account / wallet on behalf of a company (the legal entity) must be opened to make a cryptocurrency transaction on behalf of the company (or a legal entity). 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 the management board), does not make transactions in his own name, but in the name of, in the interests of, 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 on the transaction is calculated based on 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>A natural person who starts or continues investing in cryptocurrency as a company (legal entity) 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 GST / VAT / ESS or equivalent 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 position for GST / VAT / ESS or equivalent? | <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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | NFTs are not defined. May be subject to VAT depending on the underlying asset or service. |
| 4. 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. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Payment and currency exchange services are exempt from VAT pursuant to the § 16 (2 ¹) 4) of the VAT Act. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | <p>Yes, there is a definition of online marketplace in the Cybersecurity Act which has a wider ambit than just ESS.</p> <p><u>Online marketplace (Cybersecurity Act § 2 5):</u> ‘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</p> |

Estonia

Indirect Tax (Continued)

| Question | Response |
|---|--|
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | No guidance. In our understanding it could be either the service provider or business recipient. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No. |
| 10. 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? | No direct tax law, but there is a detailed guidance by the Finnish Tax Administration (FTA) called "Taxation of virtual currencies." The guidance comprises the tax treatment of virtual currencies from the perspectives of individual income taxation, corporate taxation, and VAT. |
| 2. What is the scope of taxability? | <p>According to the ruling of the Finnish Supreme Administrative Court (KHO 2019:42), transfers of virtual currencies are subject to capital gains tax rules in accordance with the Income Tax Act (ITA). However, they are not treated as securities.</p> <p>According to the ruling of the Helsinki Administrative Court (HHAO 18/0426/3) an exchange of virtual currency to another virtual currency triggers capital gains taxation.</p> <p>Furthermore according to the FTA's guidance, any event in which a virtual currency is used triggers (capital gains) taxation. Every increase or decrease in the value of a virtual currency position is taxable separately for example when:</p> <ul style="list-style-type: none"> • Virtual currency is traded for any legally established currency regardless of whether the currency remains e.g. in a broker's account. • Virtual currency is used to pay for goods or services. • Virtual currency is exchanged for another virtual currency. <p>For tax purposes, every instance of spending, using, selling, or trading virtual currency triggers capital gains taxation and is treated as a separate transaction. If virtual currency units were acquired through multiple transactions, the increase or decrease in value that resulted from each transaction must be calculated separately. When calculating the changes in value, virtual currency is deemed to have been spent in the same order as it was acquired (FIFO) unless the taxpayer proves otherwise.</p> |
| 3. What are the direct tax implications? | <p>Individual taxation</p> <ul style="list-style-type: none"> • If subject to capital income taxation, 30% tax rate will apply up to 30k EUR capital income and 34 % tax rate to capital income exceeding 30k EUR. • If treated as earned income, subject to progressive tax rate depending on annual earned income (as well as municipality tax, church tax). <p>Corporate taxation (limited liability companies) Subject to 20 % CIT rate.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>Income received from online games is treated as earned income.</p> <p>Income received from virtual currency mining activities (proof of work protocol) is treated and taxed as earned income.</p> <p>Income received from virtual currency staking (proof of stake protocol) is treated and taxed as capital income.</p> |
| 5. What are the tax compliance/reporting requirements? | Income from the sale (or any other event that triggers capital gains or losses taxation) must be included and declared in the individual's/company's income tax return regardless of whether it has been accrued abroad or not and in which currency. Same applies to income from mining or staking. |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | No law – The Finnish Tax Administration has published guidelines on cryptocurrency with short comments on VAT referring to ECJ case C-264/14, Hedqvist. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | Cryptocurrencies are considered as means of payment and VAT exemptions related to financial services may apply. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No definition of NFTs in the Finnish VAT Act. The Finnish Tax Administration defines NFT as a unique digital code that identifies the ownership of a specific commodity – usually a digital item such as a tweet, drawing, piece of music, or an image. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | The supplies of NFT are in general subject to VAT, however, should be evaluated case by case depending what kind of asset the NFT represents. Cryptocurrency is considered as a means of payment with similar effects as payment in euros. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Relating to cryptocurrencies. Please see Q2 |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Electronic interface means an electronic marketplace, platform, portal or similar tools. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | A marketplace is liable for VAT on the sale of an electronic service to a customer. If the NFT represents an electronic service, the market place may be liable to pay the VAT depending on the role of the market place. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No |

Finland

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 10. Are there specific rules for virtual events? | According to the Tax Administration guideline virtual events are considered as electronic services when the event is fully automated and require a minimal amount of human intervention. If the conditions are not fulfilled, the service is considered as a general place of supply service. |

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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 92 2 1 bis 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 Finance Act for 2023 changed the taxation of crypto-assets for individuals.</p> <p>Before 1st January 2023, the tax treatment applicable to individuals depended on whether or not the sale of crypto-assets was made on a regular basis and qualified as a professional activity (case-by-case analysis). Sales of crypto-assets made <u>on a purely occasional basis</u> by a French taxpayer were subject to French personal income tax at a global tax rate of 30% (12.8% of income tax and 17.2% of social levies).</p> <p>From 1st January 2023, individuals who sell crypto-assets as part of their private assets - no matter whether the taxpayers make capital gains on an occasional or a regular basis - and not as part of their professional activities, are subject automatically to French personal income tax at a global tax rate of 30% (12.8% of income tax and 17.2% of social levies). By exception, capital gains realized since 1 January 2023 may be subject, by express and irrevocable option, to the progressive rate of income tax (from 0% to 45% in 2023). This option is global and applies to all capital gains realized by the taxpayer on the sale of crypto-assets. It must be opted for each year when the tax return is filed, and no later than the deadline for filing the tax return. The option may be exercised for the first time in 2024 for the taxation of 2023 income.</p> <p>Taxable transactions include the exchange of crypto assets against FIAT money or goods and services. The exchange of a crypto-assets against another crypto-asset is not subject to tax.</p> <p>Please note taxpayers are exempt from tax when the sum of the sale prices does not exceed €305 during the tax year (art. 150 VH bis of the FTC).</p> <p>Before 1st January 2023, the sale of crypto-assets made <u>on a regular basis</u> was 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>From 1st January 2023, investors who carry out cryptocurrency transactions under conditions similar to those of a professional (this refers to the normal activity of a professional trader) are subject to personal income tax on their capital gains as non-business income ("bénéfices non commerciaux - BNC"). Capital gains are subject to the personal income tax rate (from 0% to 45% in 2023) and to social levies (17.2%), after deduction of a 34% allowance ("micro-BNC regime") or of expenses relating to the activity ("controlled declaration regime").</p> <p>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 unrealized loss, a provision for risk should be recorded (please see after).</p> |

Direct Tax (Continued)

| Question | Response |
|--|---|
| 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 unrealized losses; on the liabilities side of the balance sheet in the case of unrealized gains. • In the event of an unrealized 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). <p>From a legal point of view, the EU has set up a regulation on Markets in Crypto-Assets (MiCA). It will be applicable from 30 December 2024, with the exception of the provisions on stablecoins (Titles III and IV of the Regulation), which will take effect from 30 June 2024. From 30 December 2024, this harmonized European framework will replace the national frameworks in place, and will regulate:</p> <ul style="list-style-type: none"> • The public offer and admission to trading of tokens; • The provision of crypto-asset services by service providers; • The prevention of market abuse in crypto-assets. <p>After this date, crypto-assets service providers that provide crypto-asset services in the EU and that are not entitled to the transitional period described below will be subject to mandatory authorization in order to provide their services throughout the EU. The date of 30 June 2026 will mark the end of the 18-month transitional period granted to digital asset service providers (DASPs) that have obtained "simple" registration, "enhanced" registration, or optional licensing from the French Autorité des Marchés Financiers, or that provide services not subject to mandatory registration, before 30 December 2024. During this 18-month period, these entities will be able to continue offering their services solely to investors in France. From 1st July 2026, they will have to obtain MiCA authorization in order to continue offering their services, including to investors in France.</p> <p>However, DeFi and NFTs will be excluded from the scope of MiCA.</p> |
| 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 realized 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 realized 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 organizations 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 / VAT / ESS or equivalent 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 make 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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No tax guidance to date. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>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 (ECJ, 10/22/2015, C-264/14 “Hedqvist”), whereas the exchange of crypto-assets against goods and services is subject to VAT.</p> <p>We are aware of a tax ruling in which the French Tax Authorities confirmed that certain sales of NFTs are not subject to VAT because of the uncertainty that exists at the time of their sale. This is the case when a company sold NFTs, the ownership of which would provide access to various services that did not exist at the time of the sale. Indeed, the French Tax Authorities considered, as for utility tokens, (see above) that there is no direct link between the service rendered and the consideration received at the date of the sale. The sale of NFTs therefore is outside the scope of VAT.</p> <p>In the context of this tax ruling, the French Tax Authorities also considered that the royalties that a company may receive when the owners of its NFTs resell them to other persons on the secondary market should not be subject to VAT in the absence of a legal link with the person purchasing the NFTs.</p> <p>Please note that this tax ruling has not been published by the French Tax Authorities and cannot be used against the French Tax Authorities. However, it provides the authorities' position on the VAT taxation of certain NFTs.</p> |
| 5. Are there any other applicable exemptions relating to crypto assets? | No. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent 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 |
|---|--|
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | No specific tax guidance to date. However, if the above conditions for electronic services are met, a presumption of opaque intermediary is established for operators providing such services. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No tax guidance to date. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No tax guidance to date. |
| 10. Are there specific rules for virtual events? | No tax guidance to date. |

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Georgia

Direct Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | There is a public binding ruling issued by the Ministry of Finance (hereinafter the "Ruling"), which regulates Personal Income Tax (PIT) and Value Added Tax implications on cryptocurrency. The Ruling does not cover Corporate Income Tax (CIT). |
| 2. What is the scope of taxability? | <p>According to the Ruling, the supply of a crypto asset by an individual is exempt from PIT as Georgia is not considered to be the source of underlying income.</p> <p>Georgia does not implement the traditional Corporate Income Tax (CIT) regime. Georgian resident entities and Georgian permanent establishments of foreign entities are taxable on the distribution of profits to the shareholder rather than accrued profits. CIT rate is 15%. Even though not specifically provided for by the Georgian legislation, profit earned as a result of supply of crypto asset would be subject to CIT once the underlying profits are distributed to the shareholder being an individual or non-resident entity.</p> <p>There is no specific guidance with regard to taxation from property tax perspective. Under the Ruling, a crypto asset is viewed as a cash equivalent. Respectively, it is reasonable that the same qualification should be given for property tax, meaning that it should not be taxable by property tax.</p> |
| 3. What are the direct tax implications? | Please see above. |
| 4. Are there any other relevant/noteworthy tax considerations? | N/A |
| 5. What are the tax compliance/reporting requirements? | <p>Even though not specifically provided for by the Georgian legislation, according to the general rules with regard to Georgian resident entities and permanent establishments of non-resident, profit earned as a result of supply of a crypto asset would be subject to CIT once it is distributed to the shareholder being an individual or non-resident entity.</p> <p>Relevant tax should be reported/paid before the 15th day following the month when relevant distribution happened.</p> <p>No compliance/reporting requirements should arise for individuals.</p> |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | <p>According to the Georgian Tax Code (GTC), a crypto asset is not considered a good for VAT purposes. Likewise, the transfer or ownership of a crypto asset also is not considered to be a provision of a service.</p> <p>In addition to the above, there is a public binding ruling issued by the Ministry of Finance (hereinafter the “Ruling”), which provides guidance on VAT implications related to cryptocurrency.</p> |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>According to GTC and the Ruling, the supply of a crypto asset as well as the transfer of ownership rights to it is not considered as VAT taxable transactions.</p> <p>The definition of a crypto asset is not provided under the Georgian Tax Code. Rather, the Ruling refers to and shares the position of European Central Bank, which defines virtual currency in its publication of 2015 as follows:</p> <p>“Virtual currency” is defined as a digital representation of value, not issued by a central bank, credit institution or e-money institution, which in some circumstances can be used as an alternative to money.</p> <p>“Crypto Asset”, in turn, is included in the definition of the “Virtual currency.”</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | Non-fungible tokens (NFTs) are not defined under the Georgian legislation, including under the Ruling. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | N/A |
| 5. Are there any other applicable exemptions relating to crypto assets? | The Ruling also provides guidance on VAT implications on provision of hashing power for mining the crypto asset. Such activities are viewed as an electronically provided service subject to VAT depending whether or not it is supplied in Georgia. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A |

Georgia

Indirect Tax (Continued)

| Question | Response |
|--|--|
| <p>8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset.</p> | <p>According to the Georgian legislation, the official currency unit of Georgia is the Lari (GEL). GEL is the only legal means of payment in the territory of Georgia, except for some specific cases.</p> <p>According to the GTC and the Ruling, a crypto asset is not considered as a currency unit. However, provided that under the Ruling, crypto asset definition follows the definition suggested by European Central Bank, the Ruling shares the position that a crypto asset can be used as an alternative to money and as a means of payment for goods/services, or for exchanging it for national or foreign currency.</p> |
| <p>9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance?</p> | <p>No Decentralised Finance (DeFi) rules exist in Georgia.</p> |
| <p>10. Are there specific rules for virtual events?</p> | <p>No.</p> |

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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.</p> <p>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.</p> <p>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.</p> <p>Activities such as crypto mining, forging, and lending also result in operating income at the company level, which is also subject to the general taxation rules. This means that these also are 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 one 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> <p>This opinion was confirmed with respect to currency tokens by the German Federal Fiscal Court in 2023. The Federal Fiscal Court ruled that currency tokens qualify as economic goods, with the consequence that the gain resulting from a sale within one year after acquisition is taxable income.</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 tokens 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 already has 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 must be recognised. Where security tokens are used for corporate financing and are contractually structured so that the tokens are treated as equity-like participation rights of the issuer, the representative participation right is to be shown on the liabilities side of the issuer’s tax balance sheet.</p> |

Germany

Direct Tax (Continued)

| Question | Response |
|---|--|
| 5. What are the tax compliance/ reporting requirements? | There are currently no special tax compliance or reporting requirements associated with cryptocurrency. Normal tax reporting and compliance rules apply. |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent 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 position for GST / VAT / ESS or equivalent? | 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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | 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. Yes, in general the standard 19% rate (domestic transactions). However, a 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. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Single supply of NFT, cryptocurrency payment is disregarded for German VAT purposes. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Tax exemption for the turnover and the intermediation of the turnover of legal tender applies. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent 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. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent 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 any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Not at this stage. |

Germany

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage. |
| 10. Are there specific rules for virtual events? | <p>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.</p> <p>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.</p> |

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Gibraltar

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? | <p>Capital gains are not taxable in Gibraltar.</p> <p>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.</p> |
| 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? | <p>There are no specific tax compliance/reporting requirements for cryptocurrency.</p> <p>For companies, general rules will apply as follows:</p> <ul style="list-style-type: none"> - Annual tax returns must be filed nine 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 nine months after year end. <p>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 also should 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.</p> |

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Gibraltar

Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | No – There is currently no VAT / GST regime in Gibraltar. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | N/A |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | N/A |
| 5. Are there any other applicable exemptions relating to crypto assets? | N/A |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | N/A |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | N/A |

Gibraltar

Indirect Tax (Continued)

| Question | Response |
|--|----------|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | N/A |
| 10. Are there specific rules for virtual events? | N/A |

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Hong Kong

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. However, the guidance does not cover staking, DeFi, or Web3 implications such as NFT and tokenisation of real-world assets. |
| 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, are subject to Hong Kong profits tax.</p> <p>The DIPN provides certain general guidelines as to how to determine the nature of the profits from a transaction 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 generally is revenue in nature, whereas the issuance of a security token generally is capital in nature. - Cryptocurrencies received in the course of a cryptocurrency business (e.g. through airdrops and forks) generally are regarded as business receipts. - The nature (capital vs. revenue) of profits from the disposal of digital assets is determined based on facts and circumstances in regard to established principles. - The broad guiding principle is 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>For a transferor subject to Hong Kong profits tax: <u>Income of a revenue nature sourced in Hong Kong</u> is 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 generally are deductible outright as prescribed fixed assets; other plant and machinery may generally qualify for depreciation allowances).</p> <p>For a transferee subject to Hong Kong profits tax: <u>Acquisition of cryptocurrencies</u> should not by itself give rise to any Hong Kong profits tax implications. Subject to the accounting treatment, receipt of cryptocurrencies for free 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>For Exchanges / Brokers (including Foreign Exchanges / Brokers): <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 the form of digital assets remains subject to salaries tax.</p> |

Hong Kong

Direct Tax (Continued)

| Question | Response |
|--|---|
| 5. What are the tax compliance/reporting requirements? | <p><u>With respect to the transfer of digital assets</u></p> <p>For a transferor subject to Hong Kong profits tax:</p> <ul style="list-style-type: none">- Filing annual profits tax returns (and reporting the relevant income therein). <p>For an 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 / VAT / ESS or equivalent law on cryptocurrency? | There is no GST / VAT / ESS regime in Hong Kong. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | N/A |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | N/A |
| 5. Are there any other applicable exemptions relating to crypto assets? | N/A |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | N/A |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | N/A |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | N/A |

Hong Kong

Indirect Tax (Continued)

| Question | Response |
|--|----------|
| 10. 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? | <p>Yes, there is a direct tax law on cryptocurrency.</p> <p>The regulation is included under the Act CXVII of 1995 on Personal Income Tax covering the taxation of crypto assets. It has been applicable since 1 January 2022.</p> |
| 2. What is the scope of taxability? | <p>The new regulation covers the income from trading and mining of crypto assets by private individuals.</p> <p>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 fiat-crypto or crypto crypto-fiat transactions.</p> <p>Transaction executed in respect of crypto-assets means 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 crypto assets) where the private individual acquires a profit by means other than crypto crypto assets.</p> <p>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 crypto-assets and transaction fees and commissions, including certified expenses not directly connected to any given transaction, incurred in connection with holding crypto-assets.</p> <p>Loss must 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.</p> |
| 3. What are the direct tax implications? | <p>Income from crypto transactions is subject to 15% personal income tax in Hungary.</p> <p>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 also are deductible (such as the purchase of mining equipment or electricity).</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>If a private individual realises 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.</p> <p>No taxation arises if the amount of revenue arising on a crypto transaction does not exceed 10% of the minimum wage (HUF 23.200 in 2023), provided that in the tax year the sum total of these revenues does not exceed the minimum wage (HUF 232.000 in 2023).</p> |
| 5. What are the tax compliance/reporting requirements? | <p>The realised income and the tax liability should be reported to the Hungarian Tax Authority in the annual Hungarian tax return.</p> <p>The annual tax return is due by 20 May in the year following the tax year concerned (i.e., in which the income was realised).</p> <p>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.</p> |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Act CXXVII of 2007 – on Value Added Tax (hereinafter “ VAT Act ”), moreover any other indirect tax related act, guidance does not contain specific rules for cryptocurrencies. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | Neither the VAT Act, nor any indirect tax related act, guidance contains a definition or any specific rule for NFTs. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>Although there is nothing regarding the transaction of NFTs in the 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. Thus, we are of the view that the underlying asset determines the VAT treatment of a sale of an NFT.</p> <p>The sale of NFTs can be considered as a transaction subject to VAT or as a VAT exempt economic event; however. it should be examined on a case-by-case basis.</p> |
| 5. Are there any other applicable exemptions relating to crypto assets? | Neither the VAT Act nor any other indirect tax related act or guidance contains a definition or any specific rule for crypto assets; therefore no applicable exemption rule is present. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | <p>Although marketplace is not defined in the VAT Act (the concept is only mentioned in the VAT Act), nevertheless according to VAT guidance, marketplace generally means an electronic platform, which enhances the sale of goods.</p> <p>Furthermore, it also is a named and interpreted concept in the Hungarian VAT Act that services can be sold through a marketplace, nevertheless the concept of remote services sold through a platform or marketplace is not interpreted in the VAT Act.</p> |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | There are some specific rules, which are elaborated on in the VAT Act in relation to goods sold through a platform or a marketplace with regards to the person, who shall assess and pay the VAT (services are not mentioned). Therefore, taking into consideration the assumption that the VAT treatment of a sale of an NFT is determined by the underlying asset, it is possible that special rules are to be applied. Nonetheless, these transactions are to be examined on a case-by-case basis. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | There is no specific rule or guidance in relation to tokenisation of a real-world asset. Nevertheless, we are of the view that the token, behind which an underlying asset can be identified which also (or a part of it) could be sold in the event that the crypto asset is sold, the transaction must be treated the same way from VAT perspective as an economic event, with regards to which a crypto asset cannot be identified (only the real-world asset). |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No, there are not any specific indirect tax related rules, official guidance for De-Fi. Even generally there is no legislation in relation to De-Fi or the concept of De-Fi. |

Hungary

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 10. Are there specific rules for virtual events? | The VAT Act does not prescribe specific rules for virtual events. Nevertheless, the place of the transaction should be examined individually. In light of the available legal background, transactions could be subject to the “electronically supplied services” rules or to the traditional rules, where the place of supply is the place where the services are physically performed. 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 1 July 2022, withholding Tax (WHT) obligation on payment for transfer of VDA to an Indian resident subject to certain minimum thresholds. <p>Broadly VDA is defined to cover:</p> <ul style="list-style-type: none"> any information or code or number or token (not being Indian currency or foreign currency); -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><i>[specifically includes Non-fungible Tokens (NFTs) and other digital assets as may be specified by the Central Government]</i></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. -Netting the loss arising on sale of VDA is not permitted 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> |

Direct Tax (Continued)

| Question | Response |
|--|---|
| 3. What are the direct tax implications? (Continued) | <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 must 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> <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 must 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>In effect from 1 April 2020, Equalisation Levy ('EL') at the rate of 2% applies on consideration received/receivable by any non-resident who 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 cryptocurrencies/ NFTs qualifies as goods or services then applicability of 2% EL on consideration from India residents must be evaluated separately.</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 & 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 / VAT / ESS or equivalent law on cryptocurrency? | No – presently there are no specific provisions providing guidance on the indirect tax position for cryptocurrency. The Indian Government's stand on levying GST on cryptocurrency and its related services is anticipated in the upcoming GST council meeting. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | NA |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | <p>There is no specific definition for NFT on a stand alone basis. Virtual Digital Assets (VDA) is defined in the Income Tax law and the same definition is found in the GST law in India. A VDA is:</p> <p>(a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, 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; and can be transferred, stored or traded electronically;</p> <p>(b) a non-fungible token or any other token of similar nature, by whatever name called;</p> <p>(c) any other digital asset, as the Central Government may, by notification in the Official Gazette specify;</p> <p>Presently there are no specific provisions providing guidance on the levy of GST on NFTs. However, it is likely that NFTs will be subject to GST in India.</p> |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | This would be considered as a barter transaction, taxable in India. However, the tax treatment of NFTs and cryptocurrencies is still subject to clarification from the Government. |
| 5. Are there any other applicable exemptions relating to crypto assets? | No. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | <p>Related provisions of the Central Goods and Services Tax Act, 2017 are as follows:</p> <p>2(44). "electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network;</p> <p>2(45). "electronic commerce operator" means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;</p> |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Marketplace. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No specific guidance issued at this stage. |

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage. |
| 10. Are there specific rules for virtual events? | <p>Not specifically, however virtual events could be viewed as online access and database retrieval services (OIDAR services). A definition provided under the Integrated Goods and Services Tax Act, 2017 provides:</p> <p>2(17). "online information and database access or retrieval services"</p> <p>In this Act, unless the context otherwise requires,-</p> <p>(17). "online information and database access or retrieval services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,-</p> <ul style="list-style-type: none"> (i) advertising on the internet; (ii) providing cloud services; (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet; (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network; (v) online supplies of digital content (movies, television shows, music and the like); (vi) digital data storage; and (vii) online gaming; <p>If an overseas entity is providing OIDAR services to an unregistered customer in India, the overseas entity could likely be required to register in India and pay GST on the said supply.</p> |

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Ireland

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? | <p>Taxed in the same way as any other assets - no special rules apply.</p> |
| 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? | <p>None</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> <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. The Directive introducing reporting obligations for institutions offering crypto-asset services or electronic money services to customers in the EU (DAC8) has been agreed and will apply as of 1 January 2026.</p> |

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Indirect Tax

| Question | Response |
|--|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | <p>Yes</p> <p>The Revenue Commissioners in Ireland have issued guidance on the taxation of crypto asset transactions (including VAT).</p> <p>There also is case law from the Court of Justice of the European Union (CJEU) (Hedqvist, C-264/14) on the VAT treatment of cryptocurrency exchange.</p> |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>According to guidance issued by the Revenue Commissioners and in accordance with the Hedqvist 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 Revenue Commissioners guidance also indicates that income received from cryptocurrency mining activities generally will be outside the scope of VAT on the basis that the activity does not constitute an economic activity for VAT purposes.</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No |
| 4. 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. |
| 5. Are there any other applicable exemptions relating to crypto assets? | N/A |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent 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. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | As discussed above, the VAT treatment of NFTs is yet to be determined. |

Ireland

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Not at this stage |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage |
| 10. 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 December 31, 2024 and will take effect from 1 January 2025.</p> <p>The place of supply changes provides 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 provides 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>The Italian Financial Bill for 2023 (Law 29 December 2022, n. 197) introduced a specific tax regime applicable to cryptocurrencies held by natural persons (acting outside the ordinary course of business activity) and certain entities (e.g., non commercial entities).</p> <p>For companies, the Financial Bill for 2023 introduced tax rules concerning the evaluation of the cryptocurrencies held at the end of the FY.</p> <p>Further, on 15 June 2023 the Italian tax authorities issued a draft circular letter that explains the tax rules recently introduced on cryptocurrencies. The draft was available for feedback/comments on the content, to be provided by 30 June 2023. As of today, the final version of the circular letter has not been published.</p> |
| 2. What is the scope of taxability? | <p>The Financial Bill updated the “miscellaneous incomes” provision (applicable to Italian individuals, Italian non commercial entities and foreign investors) introducing a new category of incomes which comprise any “digital representation of values or rights that can be transferred or recorded electronically through DLT (Distributed Ledger Technology) or similar technology.” This definition is similar to the one contained in MiCA regulation and includes, in principle, transactions relating to:</p> <ul style="list-style-type: none"> • utility token; • staking; • crypto currencies; • NFT. <p>The new regulation does not apply to investment tokens or security tokens, which are considered as financial instruments and thus they are subject to the tax rules applicable to the “underlying” instrument (e.g., security tokens representing bonds are subject to the tax treatment of bonds).</p> |
| 3. What are the direct tax implications? | <p>Company</p> <p>In general, the exchange between different cryptocurrencies or exchange of cryptocurrencies with FIAT currency (such as Euro) as well as the sale of cryptocurrencies generates positive and negative items 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>Based on the news introduced by the Financial Bill for 2023, with reference to cryptocurrencies held by a 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 not subject to corporate income tax (IRES) and regional tax (IRAP), regardless how cryptocurrencies are accounted for and regardless the recognition of incomes/losses from the evaluation of said cryptocurrencies in the P&L .</p> <p>Natural person (acting outside the ordinary course of business activity)</p> <p>Capital gains realised by a natural person and remuneration in cryptocurrencies received for staking are subject to final substitute tax equal to 26%.</p> <p>Further, the following tax rules apply:</p> <ul style="list-style-type: none"> • capital gains on cryptocurrencies are taxable if above € 2.000; • capital loss on cryptocurrencies are deducted from the related capital gains (meaning that no offset against e.g., capital gains on shares, bonds, etc.) above € 2.000; • capital loss on cryptocurrencies are not deductible from remuneration for staking. |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>Natural person</p> <p>Individuals who become residents of 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. Based on the clarifications contained in the draft Circular letter, if cryptocurrencies are held abroad, they should be included in the scope of the substitute tax on foreign income .</p> |

Direct Tax (Continued)

| Question | Response |
|--|--|
| 5. What are the tax compliance/reporting requirements? | <p>Company 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 also must 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 Capital gains on cryptocurrencies are taxable in the tax return, unless the individual taxpayer opts for the application of the so called “Risparmio amministrato” or “Risparmio gestito” tax regime with a suitable intermediary. In this case, the intermediary would apply the 26% substitute tax and the individual investor is no longer required to include the income in its annual tax return.</p> <p>For cryptocurrencies held with Italian financial intermediaries (or Italian branches of foreign intermediaries), the intermediaries apply an annual 0,2% stamp duty tax on the value of the cryptocurrencies.</p> <p>If no “Risparmio amministrato” or “Risparmio gestito” tax regime applies (e.g., cryptocurrencies held abroad, cryptocurrencies held directly by the investor etc...) the individual taxpayer is required to indicate them in the RW section of the tax return and pay IVACA tax at the 0,2% rate</p> |

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Indirect Tax

| Question | Response |
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| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent 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. In June 2023, a Circular letter was issued in draft for discussion. Although this document is focused more on other taxes, the Italian tax authorities provide an overview of the VAT treatment of crypto assets. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | The term cryptocurrency itself is not defined, but the above-mentioned ITA documents borrow from the EU guideline the classification and the related interpretation of: - payment token; - utility token; - security token. A definition is included in the draft Circular letter and is in line with the EU guidelines. 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). The ITA recently published clarifications regarding mining activities, which are considered as out of scope of VAT, where it is not possible to identify a link between the provider and the customer. The draft Circular letter confirms that certain services related to crypto currencies are VAT exempt. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No, the concept of NFTs is not addressed in Italian legislation or in Italian tax authorities’ published documents to date. In the draft Circular letter, the ITA mainly refers to EU guidelines. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | As noted above, there is currently no published guidance from Italian tax authorities on the VAT treatment of NFTs. An analysis on a case by case basis should be carried out in order to define the VAT treatment (this approach is confirmed in the draft Circular Letter). |
| 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 was considered as out of the VAT scope as the tokens at stake - for their specific functions - were comparable to mere entitlement documents. In the draft Circular letter, ITA confirmed that (i) an analysis on a case by case basis is recommended (ii) certain services (e.g. digital wallet custody; staking) might benefit from the VAT exemption. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | 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). The above “look through approach” has been included in the draft Circular letter. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Where transfer of NFTs fall 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 “Explanatory notes on the EU VAT changes to the place of supply of telecommunications, broadcasting and electronic services”). No clear guidelines on the matter for NFTs are available. |

Indirect Tax (Continued)

| Question | Response |
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| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | 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. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No published guidance at this stage. |
| 10. Are there specific rules for virtual events? | No published 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? | <p>For individuals, income from cryptocurrencies transactions is subject to income tax as miscellaneous income at the progressive rate.</p> <p>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 (*).</p> <p>(*) They have markets if all of the following requirements are met.</p> <p>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.</p> <p>ii) Transactions are being conducted in sufficient quantity and frequency so that the selling price (i) above can be continuously published.</p> <p>However, cryptocurrencies that meet the following criteria are excluded from the scope of crypto assets held by corporations at the end of the fiscal year that must be recorded at their fair value:</p> <p>a) The cryptocurrencies were issued by the corporation itself and continuously held since issuance.</p> <p>b) The transfer of the cryptocurrencies is restricted by one of the following methods on an ongoing basis since its issuance:</p> <p>i. Technical measures are taken to prevent the transfer of the cryptocurrencies to other persons.</p> <p>ii. The asset is entrusted and the trust holding the cryptocurrencies satisfies certain requirements.</p> <p>Under the 2024 Tax Reform Proposals, the valuation at the end of the fiscal year of cryptocurrencies with restrictions on transfer and other conditions that fall under the category of market cryptocurrencies held by a corporation is to be based on either of the following valuation methods as elected by corporate taxpayers:</p> <p>(1) Cost method; or</p> <p>(2) Market value method.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | Clear guidelines of "Japan source income" regarding the cryptocurrencies transactions have not yet been provided , 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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Japan

Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes - Consumption Tax Law was amended in 2017. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | 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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | 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. Under the Japanese Consumption Tax Law, transfer of copyrighted material and services provided via electronic and telecommunication networks (e.g., the 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 might not be included in “provision of electronic services” but this is uncertain. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Not clear. |
| 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Not clear |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No. |

Japan

Indirect Tax (Continued)

| Question | Response |
|--|----------|
| 10. 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? | Revenue Jersey issued guidance on the tax treatment for cryptocurrencies. There currently are 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 generally will not 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 unincorporated 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? | <p>Where relevant, cryptocurrency activities / transactions will be taxed in accordance with general Jersey taxation principles and provisions.</p> <p>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%.</p> |
| 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 must 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 / VAT / ESS or equivalent 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 position for GST / VAT / ESS or equivalent? | The value of any supply of goods or services purchased with cryptocurrency must be converted to sterling for GST purposes at the date of transaction. Income received by GST registered entities from cryptocurrency mining activities generally will 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). No GST will be due where cryptocurrencies are exchanged for sterling, other foreign currencies or other cryptocurrencies. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | N/A |
| 5. Are there any other applicable exemptions relating to crypto assets? | N/A |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | N/A |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | N/A |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | N/A |
| 10. Are there specific rules for virtual events? | N/A |

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Kenya

Direct Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | Yes - The Finance Act 2023 introduced a provision on Digital Assets Tax ("DAT") under Section 12F of the Kenya Income Tax Act ("ITA"). This provision covers the taxation of income derived from the transfer or exchange of digital assets, effective 1 September 2023. |
| 2. What is the scope of taxability? | <p>The owner of a platform or the person who facilitates the exchange or transfer of a digital asset shall deduct the digital asset tax and remit it to the Commissioner. A non-resident person who owns a platform on which digital assets are exchanged or transferred shall register under the simplified tax regime.</p> <p>"digital asset" includes -</p> <p>(i) anything of value that is not tangible and cryptocurrencies, token code, number held in digital form and generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration that can be transferred, stored or exchanged electronically; and</p> <p>(ii) a non-fungible token or any other token of similar nature, by whatever name called.</p> <p>"Income derived from transfer or exchange of a digital asset" means the gross fair market value consideration received or receivable at the point of exchange or transfer of a digital asset.</p> |
| 3. What are the direct tax implications? | The owner of a platform or the person who facilitates the exchange or transfer of a digital asset shall deduct the digital asset tax and remit it to the Commissioner. |
| 4. Are there any other relevant/noteworthy tax considerations? | N/A |
| 5. What are the tax compliance/reporting requirements? | <p>-The seller must deduct and remit DAT to the Commissioner of the Kenya Revenue Authority ("KRA") within five working days after making the deduction.</p> <p>-In addition, the seller must file a return detailing;</p> <p>i. The amount of payment;</p> <p>ii. Amount of tax deducted; and</p> <p>iii. Any other information required by the Commissioner.</p> |

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Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | No - Kenya does not have any statutory laws governing cryptocurrencies and the Kenyan tax authority has not published any guidelines governing the applicability of VAT to cryptocurrencies. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>Yes - Our view is premised on the broad definition of ‘services’ for VAT purposes and the fact the VAT Act, 2013 has not explicitly exempted NFTs from VAT.</p> <p>Furthermore, NFTs are not recognised as legal tender in Kenya and it is our view that they cannot be construed as ‘money’ excluded from the scope of taxable supplies in Kenya.</p> <p>The VAT Act, provides that a supply of services for VAT purposes means “<i>anything done that is not a supply of goods or money</i>”</p> <p>The VAT Act further defines ‘money’ to mean inter alia “any coin or paper currency that is legal tender in Kenya”</p> |
| 5. Are there any other applicable exemptions relating to crypto assets? | No |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Yes. See response to question 7 below. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | <p>In Kenya, the VAT (Electronic, Internet and Digital Marketplace Supply) Regulations, 2023 (“the Regulations, 2023) widened the scope of services construed as electronic, internet, and digital marketplace supplies to include:</p> <p>“<u>facilitation</u> of online payment for, exchange or transfer of digital assets, excluding services exempted under the Act”</p> <p>Unfortunately, the VAT law or Regulations do not define the term ‘digital asset’. However, the Kenyan Income Tax Act, Cap 470 (which can be relied upon on a persuasive basis) defines a ‘digital asset’ as follows:</p> <ul style="list-style-type: none"> anything of value that is not tangible and cryptocurrencies, token code, number held in digital form and generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration that can be transferred, stored or exchanged electronically; and |

Indirect Tax (Continued)

| Question | Response |
|---|--|
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? (Continued) | <ul style="list-style-type: none"> a non-fungible token or any other token of similar nature, by whatever name is called. <p>The Regulations 2023 are aimed at non-resident suppliers supplying ESS to Kenyan consumers regardless of B2B or B2C.</p> <p>Our interpretation of the imposed VAT under Regulations 2023 is that, any fees earned by a non-resident supplier for facilitating a payment for, the exchange or transfer of a digital asset (including digital currencies) for a consideration (eg., exchanges for a fiat currency or for a good or service with a Kenyan customer) are subject to VAT at the standard rate of 16%.</p> <p>In this case, the non-resident supplier facilitating a payment for the exchange or transfer of a digital asset in Kenya must register (under the simplified VAT registration framework) and account for VAT.</p> |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Yes, section 5 (9) of the VAT Act, 2013 defines a digital marketplace to mean “an online platform which enables users to sell goods or provide services to other users” |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No guidance issued so far. |
| 10. Are there specific rules for virtual events? | No rules or guidance issued by the Kenyan tax authority with regards to Decentralised Finance at this stage. |
| 11. Are there specific rules for virtual events? | <p>No. However, the VAT implications depend on the nature of the virtual event in question and whether the virtual event is construed to be a service provided electronically, over the internet or a digital marketplace as envisaged under the Regulations 2023.</p> <p>e.g., VAT is applicable at the standard rate of 16% to a <u>non resident</u> facilitator of virtual events catered for the provision of online education programmes including distance teaching programs through pre-recorded media, e-learning, education, webcasts, webinars, online courses and training but only to the extent that such online education services are not exempted under the First Schedule to the VAT Act.</p> |

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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 26.4% (including local income tax) on any income or gains from virtual assets (reduced marginal tax rate applies for the fiscal year starting on or after 1 January 2023). - <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 2025. - <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 2025. The domestic WHT is 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 (January 1, 2025), there is uncertainty over the tax treatment on income earned from virtual assets by non-resident individuals and foreign corporations. 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 26.4% (including local income tax) on the virtual assets received for free (reduced marginal tax rate applies for the fiscal year starting on or after January 1, 2023) - <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 2025, the acquisition cost is determined as the greater of the market price as of 31 December 2024 calculated under the tax law or the acquisition price of the virtual asset, effective from 1 January 2025. <p>Please note that in the case of a gift transaction, the virtual assets should be evaluated under the method prescribed in the Inheritance and Gift Tax Law (“IGTL”):</p> <ul style="list-style-type: none"> - For virtual assets that are listed in one of the four designated exchanges in Korea (i.e., UPbit, Bithumb, Korbit, Coinone): FMV would be the average of daily average trade prices during the period between one month before and one month after the valuation date - For virtual assets not listed on the above exchanges: Other reasonable methods (i.e., average trade price as at the valuation date or the market price as at the closing date in the exchanges other than the aforementioned designated exchanges) should be used to evaluate the virtual assets. |

Direct Tax

| Question | Response |
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| 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"> - Certain virtual asset service providers (including qualified virtual asset service providers whose filing have been accepted according to the Act) should submit a quarterly statement of transactions for corporations conducting the transfer or lease of virtual assets by the end of two months from the end of the quarter in which the transactions take place, effective from 1 January 2023 - Note that the virtual asset service provider also will be required to file an annual statement of virtual asset transaction by the end of the two months from the end of the fiscal year if the tax reform proposal for 2023 is approved. <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 three 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 May 31 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 GST / VAT / ESS or equivalent law on cryptocurrency? | No clear provision under Korean tax law (VATL), but the Ministry of Economy and Finance (MOEF) issued a tax ruling, providing 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 position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No clear provision for NFT under the VATL. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | 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 GST / VAT / ESS or equivalent on the sale of NFTs? | Uncertain given the lack of the clear provision for NFT under the VATL |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No clear provision under the VATL. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Uncertain given the lack of the clear provision for NFT under the VATL |

Korea

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 10. Are there specific rules for virtual events? | Uncertain given the lack of the clear provision for NFT under the VATL |

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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 26.4% (including local income tax) on any income or gains from virtual assets (reduced marginal tax rate applies for the fiscal year starting on or after 1 January 2023). - <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 2025. - <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 2025. The domestic WHT is 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 (January 1, 2025), there is uncertainty over the tax treatment on income earned from virtual assets by non-resident individuals and foreign corporations. 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 26.4% (including local income tax) on the virtual assets received for free (reduced marginal tax rate applies for the fiscal year starting on or after January 1, 2023) - <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 2025, the acquisition cost is determined as the greater of the market price as of 31 December 2024 calculated under the tax law or the acquisition price of the virtual asset, effective from 1 January 2025. <p>Please note that in the case of a gift transaction, the virtual assets should be evaluated under the method prescribed in the Inheritance and Gift Tax Law (“IGTL”):</p> <ul style="list-style-type: none"> - For virtual assets that are listed in one of the four designated exchanges in Korea (i.e., UPbit, Bithumb, Korbit, Coinone): FMV would be the average of daily average trade prices during the period between one month before and one month after the valuation date - For virtual assets not listed on the above exchanges: Other reasonable methods (i.e., average trade price as at the valuation date or the market price as at the closing date in the exchanges other than the aforementioned designated exchanges) should be used to evaluate the virtual assets. |

Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | No – The Tax Administration of Kosovo refers to the Law on VAT for cryptocurrencies as well. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No – In the VAT law there is no definition for NFTs. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Based on the VAT law, the general nature of the transaction might fall under the definition of non-cash consideration, which includes barter transactions as well. |
| 5. Are there any other applicable exemptions relating to cryptoassets? | No |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No. However, the VAT law has general rules on electronically supplied services in line with the EU 6 th Directive on VAT. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Since there is no specific definition related to marketplace, the concept of accounting for VAT at this stage is unknown. However, it is necessary to consider the general definition of taxable person in VAT Law and determine accordingly. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No. |

Kosovo

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not. |
| 10. Are there specific rules for virtual events? | No. However, the VAT rules on services provided electronically may be considered in a cross-border context, to determine the place of supply. |

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Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | There are SRS published materials on cryptocurrency activities and relevant tax aspects available. Cryptocurrency assets are considered capital assets and are subject to Personal income tax act (PIT Act) provisions and Corporate income tax act (CIT Act) provisions. |
| 2. What is the scope of taxability? | <p>Income arising from cryptocurrency transactions is considered income from capital gain as per the PIT Act. Capital gain is determined by subtracting the acquisition value and the investment value of the capital asset during the holding of the capital asset from the disposal price of the capital asset. Losses arising from the sale of capital assets can be used to reduce taxable base. However, for cryptocurrency assets, only losses arising on the sale of this specific type of assets can be used. Note that all reported figures must be supported by respective documentation.</p> <p>From the CIT perspective, income from the sale of cryptocurrency assets would be considered general income subject to CIT at the moment of profit distribution. Please note that Latvia has a CIT system based on distribution.</p> |
| 3. What are the direct tax implications? | <p>Capital gains income is subject to PIT at 20% rate.</p> <p>From the CIT perspective, tax at the effective 25% rate would apply (if profit is distributed).</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | N/A |
| 5. What are the tax compliance/ reporting requirements? | <p>For PIT Income gained from the sale of cryptocurrency must be declared via submission of quarterly and/or annual DK tax return (in Latvian - "Pārskata perioda deklarācija par ienākumu no kapitāla pieauguma") under the income code "V - income from a transaction with virtual currency". If the total capital gains income per quarter exceeds EUR 1000, the quarterly tax return should be submitted to the SRS by the 15th of the following month and the calculated tax should be paid by the 23rd date of the respective month. If the total income does not exceed EUR 1000, the annual tax return should be submitted by 15 January of the following year and the calculated tax should be paid by 23 January.</p> <p>No specific reporting is required from a CIT perspective.</p> |

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Indirect Tax

| Question | Response |
|--|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes – Guidelines for the application of tax and accounting regulations to transactions with virtual currency (Vadlīnijas par Nodokļu un grāmatvedības normatīvā regulējuma piemērošanu darījumiem ar virtuālo valūtu), released 05.01.2023, outlines the position Latvian tax authorities have on VAT applicability on transactions involving cryptocurrencies. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | According to tax authority guidelines: as VAT regulatory acts do not directly determine that virtual currencies should be exempt from VAT, thus, the jurisprudence of the Court of Justice of the European Union (CJEU) must be taken into account. According to the CJEU judgment of 22 October 2015, in the case C-264/14 Skatteverket v. David Hedqvist, the purchase or sale of virtual currency is a transaction that is exempt from VAT. Thus, according to the jurisprudence of the CJEU, the purchase and sale of virtual currency is a transaction that is exempt from VAT. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | There are no guidelines issued for the VAT treatment of non-fungible tokens (NFTs). Moreover, the definition of cryptocurrencies is narrow and does not cover NFTs, and a separate definition has not been introduced in the regulations/guidelines. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | There are no guidelines in Latvia for the application of VAT to NFTs In our opinion this would be a barter transaction, where VAT consequences for the disposal of cryptocurrency also should be assessed for VAT purposes. While cryptocurrency can be defined as a type of unregulated, digital money, which is issued and usually controlled by its developers, and used and accepted among the members of a specific virtual community, it is possible that the way in which payment for NFTs is made is not important. It is necessary to assess how to classify NFTs from a VAT perspective. It is not clearly defined what would be the NFTs treatment for VAT purposes in Latvia. In our opinion, so long as NFTs do not provide rights to a tangible asset, they must be treated as services for VAT purposes. However, the VAT treatment of services also differs depending on the kind of service. As long as an NFT provides rights to an intangible asset, it could be considered an electronically supplied service. In case the place of supply of a taxable service is Latvia, VAT rate of 21% (or in certain cases reduced rate of 5%) would have to be applied. |
| 5. Are there any other applicable exemptions relating to crypto assets? | No |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No, not at this stage. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | We have no such guidelines at this time. In the case of acting with an undisclosed agent role, the intermediary marketplace would have the obligation to account for VAT. |

Indirect Tax (Continued)

| Question | Response |
|---|--|
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | There are no guidelines at this stage. In our opinion there should be no difference in VAT treatment between the token and the underlying real-world asset. Each case should be assessed separately. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage. |
| 10. Are there specific rules for virtual events? | No, Latvia does not have any specific rules for virtual events at this stage. |

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Liechtenstein

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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Liechtenstein

Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | In Liechtenstein, the Swiss VAT law and practice is applicable due to the Swiss Liechtenstein custom union. The cryptocurrency guidance is published by the Swiss Federal Tax Authorities in VAT Info 4 appi. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <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 functions from the above categories.</p> <p>Moreover, the VAT treatment also depends on the supply related to the crypto itself. For example:</p> <ul style="list-style-type: none"> • Sale and acquisition of token : PT: Not relevant from a VAT perspective UT :taxable at the place of recipient ST: depends on the underlying asset • Trading fees: PT: exempt without credit UT: taxable at the place of recipient ST: depends on the underlying asset |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | <p>No definition.</p> <p>It is not defined as to whether NFT will be treated as ESS.</p> |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>If sold against PT: it will be considered as a taxable transaction.</p> <p>If sold against UT or ST: it will be considered as a barter transaction. The VAT implication on the cryptocurrency leg (as payment) will have to be analysed in each specific case.</p> |
| 5. Are there any other applicable exemptions relating to cryptoassets? | 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No definition. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Not clear, but assuming that the marketplace appears as the provider vis-à-vis the third party (buyer), the marketplace likely may have to account for VAT. |

Liechtenstein

Indirect Tax (Continued)

| Question | Response |
|---|---|
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No other rule than potentially the rules applicable for security (asset backed) token. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No |
| 10. Are there specific rules for virtual events? | No. However, unless this concerns learning and teaching, this probably would 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? | <p>While there is no specific income tax law regarding cryptocurrency, Lithuanian tax authorities have released limited guidance on the taxation of cryptocurrencies, which covers at a high level the direct and indirect tax implications (https://www.vmi.lt/evmi/documents/20142/391185/Pai%C5%A1kinimas+d%C4%97I+virtuali%C5%B3++RM-21969.pdf/30a8e9a1-132d-5f91-314c-64ff290f8d8b?t=1545390441331;</p> <p>https://www.vmi.lt/evmi/documents/20142/391071/Virtualios+valiutos+GPM.PDF/954957f9-18f5-1ec9-8c77-fa79d956c6d8?t=1664350832765</p> <p>https://www.vmi.lt/evmi/documents/20142/391200/Virtualios+valiutos++apmokestinimas++pelno+mokes%C4%8Diu/18d516ab-3a1b-3c21-260d-201e9cc1a64d?t=1664351971890)</p> |
| 2. What is the scope of taxability? | <p>The scope of the guidance provided is income generated through cryptocurrency:</p> <ul style="list-style-type: none"> - sale of cryptocurrency into regular currency or another cryptocurrency; - exchange of cryptocurrency into regular currency; - payment for assets, goods, or services in cryptocurrency; - Incentives to employees in cryptocurrency. <p>The scope of the guidance provided is income generated through tokens:</p> <p>1. Tax Obligations of the Token Distributor:</p> <ul style="list-style-type: none"> - the distributor of tokens intended for the purchase of goods or services recognises income when the goods or services are sold at the fair market price or the token expires; - funds received for distributed tokens considered as securities (or their part) are included in taxable income, if the token distributor does not assume any obligations or the amount of obligations is less than the amount of collected funds; - when tokens are issued during the initial coin offering (ICO), which are not considered as securities or prepayment for services, but only confirm the fact of payment of funds, without giving their owners any additional rights, then the funds collected for such distributed tokens are recognised as income of the unit that issued them. Income from such assets is recognised by the entity when the tokens are transferred to the ownership of other persons. <p>2. Tax obligations of the investor:</p> <ul style="list-style-type: none"> - the taxable income of investors who have purchased virtual tokens considered as securities includes earned interest and income from the transfer of such virtual tokens; - the taxable income from sold, exchanged, or otherwise transferred tokens; - at the time of unlocking, the tokens entitle you to receive dividends, other assets etc. <p>Tax regime applies to both individuals and legal entities.</p> |
| 3. What are the direct tax implications? | <p>Tax regime - Corporate entities:</p> <ul style="list-style-type: none"> - in relation to Corporate income tax (CIT) taxable profit from cryptocurrency exchange or sales, tokens sales, exchange or otherwise transfer are taxed at the standard CIT rate (15%, if not eligible for exemptions); - Dividends and interest earned from the tokens are taxed at the standard CIT rate (15%, if not eligible for exemptions). <p>Taxable profit is calculated: the selling price minus the price of its production (purchase) in euros.</p> |

Direct Tax (Continued)

| Question | Response |
|--|--|
| <p>3. What are the direct tax implications? (Continued)</p> | <p>Tax regime - Individuals:</p> <ul style="list-style-type: none"> - According to Personal Income Tax (PIT) Law, cryptocurrency and tokens are considered as an asset, and the sale of this virtual currency is taxed as an income from the sale of another asset. In this case, the difference in euros between the sale price and the purchase price is taxable at 15% PIT (20% if exceeds 120 average national wages per year (2023 m. EUR 202,188)); - there is an exemption limit in the amount EUR 2500 per calendar year, which is not subject to income tax; - also, the individual earned interest and income from the transfer of tokens considered as securities is taxable at 15% PIT (exemption limit in the amount EUR 500 per calendar year); - cryptocurrency produced by a resident is not considered as income received by a resident. <p>Tax regime - Individuals, who carry out individual activities:</p> <ul style="list-style-type: none"> - Resident's income from cryptocurrency and tokens can be taxed as income from individual activities (if resident acting in continuous period and meets the criteria set for individual activities (continuity, independence, pursuit of economic benefits, etc.); - when calculating the taxable income of an individual activity, the allowed deductions (currency production or purchase costs, tokens costs, commission fees and etc.) specified in PIT Law may be deducted from the income (in EUR). - taxable profit from individual cryptocurrency, tokens buying and selling activities is taxed at a 15% income tax rate; - also social security insurance (SSI rate is from 12.52% to 15.52% depending on whether the person accumulates an additional pension) and Compulsory health insurance (CHI rate 6.98%) contributions should be paid on 90% of taxable income (gross of SSI and CHI contributions). <p>Non-resident individuals, who carry out individual activities in Lithuania through a permanent base, pay income taxes in Lithuania like resident individuals, who carry out individual activities. If no permanence in Lithuania, then the income received by him in Lithuania from cryptocurrency, tokens - non-object of PIT.</p> <p>If a Lithuanian entity controls a foreign entity with preferential taxation that produces virtual currencies, trades them or carries out the distribution of virtual tokens, then it must assign positive income to taxable income in Lithuania (there are additional conditions and clauses).</p> <p>Incentives in virtual currency. Incentives transferred in virtual currency to an employee with the right of ownership must be considered as if the resident received income in kind. Such received income is classified as income related to employment relations, from which the employer is obliged to calculate, pay, and declare income tax (PIT, SSI, CHI).</p> |
| <p>4. Are there any other relevant/noteworthy tax considerations?</p> | <ul style="list-style-type: none"> - In Lithuania, cryptocurrency and tokens should be accounted for in the balance sheets according to business accounting standards (BAS); - Cryptocurrency assets should be treated as financial assets, so companies can measure them at fair value at the end of each year if they have this ability; - A unit (investor) that has purchased tokens that are not considered securities or advance payments (advances) should be treated as financial assets too. The cost of the purchased asset is the cost actually incurred to acquire the tokens; - When taxes and activities are related to virtual currencies and tokens, it should be noted that in Lithuania accounting procedures and accounting documents are drawn up using euros, therefore, all operations performed with virtual currency must be registered in euros. - The legal acts do not regulate the relationship between virtual currency (or tokens) and euro exchange. In his accounting policy, a person himself should determine the source of the exchange rate and the moment in time at which the recorded rate will be used for accounting and tax obligations. - All business transactions related to cryptocurrency and tokens income and expenses should be documented with all necessary mandatory details. |

Lithuania

Direct Tax (Continued)

| Question | Response |
|--|--|
| 5. What are the tax compliance/reporting requirements? | <p>There is currently no special tax compliance or reporting requirements associated with cryptocurrency and tokens. Normal tax reporting and compliance rules apply:</p> <ul style="list-style-type: none">- Corporate entities should submit annual CIT return (PLN204) and pay CIT by June 15 of next year (differs if the company pays advance CIT);- Individuals and individuals, who carry out individual activities, should submit annual PIT return (GPM311) and pay PIT by May 1 of next year;- Individuals, who carry out individual activities, should also pay SSI, and CHI by May 1 of next year too. |

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Lithuania

Indirect Tax

| Question | Response |
|--|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | The Lithuanian Tax Authorities have issued guidance on the taxation of cryptocurrencies which covers certain direct and indirect tax implications (currently only in Lithuanian, https://www.vmi.lt/evmi/documents/20142/391185/Pai%C5%A1kinimas+d%C4%97I+virtuali%C5%B3++RM-21969.pdf/30a8e9a1-132d-5f91-314c-64ff290f8d8b?t=1545390441331). |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | The position of the Lithuanian Tax Authorities generally align with the Court of Justice of the European Union case-law (decision in case C-264/14, Hedqvist). Cryptocurrencies used as means of payment are treated in the same manner as traditional currencies (i.e. the transactions on cryptocurrencies (e.g. exchange to other crypto or traditional currency) shall be exempt from VAT as financial services). |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | There is no public guidance on NFT's, however, we assume that the VAT treatment on electronically supplied services should be taken into account from VAT perspective. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | There are no public explanations in this respect. However, we assume that sale of NFTs should be subject to VAT as electronically supplied services. The mere fact that the sale of NFTs is remunerated by cryptocurrencies should not impact the VAT treatment of the sale itself. |
| 5. Are there any other applicable exemptions relating to crypto assets? | No specific exemptions other than exemption that could be applied in case a specific transaction falls into the scope of VAT exemption applicable for financial services (e.g. sale / exchange of a cryptocurrency used as a means of payment). |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | The concept of a marketplace is understood broadly and may cover any electronic interface through which the electronically supplied services are provided. In principle, the provisions of Article 9a of the EU Regulation 282/2011 should be taken into account. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | The applicability of a “deemed supplier” provision of Article 9a of the EU Regulation 282/2011 should be assessed on each particular case involving the supply of digital products via the marketplace. Thus, we assume that the marketplace's liability for VAT on the sale of NFTs may not be excluded. However, no public explanation on this matter. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | There is no guidance on this matter. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | There are no specific rules or guidance for NFTs VAT treatment. The explanation provided by the Tax Authorities covers only cryptocurrencies and ICO (initial coin offering). |

Lithuania

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 10. Are there specific rules for virtual events? | In our view, the rules applied to electronically supplied services VAT treatment should be taken into account. |

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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 issued an Administrative Circular dated 26 July 2018 that is specific to virtual currencies. |
| 2. What is the scope of taxability? | In the Circular dated 26 July 2018 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 generally are subject to general tax rules applicable in Luxembourg. The Administrative Circular dated 26 July 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 to be currencies but rather intangible assets for Luxembourg direct tax purposes; - Payments made in virtual currencies do not affect the tax treatment of the underlying transactions in Luxembourg; |
| 4. Are there any other relevant/noteworthy tax considerations? | Luxembourg Alternative Investment Funds (“AIFs”) holding digital assets generally are 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? | <p>Virtual currencies and digital assets generally are subject to general tax reporting rules applicable in Luxembourg. Individual and corporate taxpayers generally are 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.</p> <p>On 3 May 2023, the Luxembourg Parliament voted Bill of Law No 8029 transposing the so-called “DAC7 Directive” into Luxembourg domestic tax laws and laying the ground for an automatic exchange of information for digital platform operators in Luxembourg.</p> |

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Luxembourg

Indirect Tax

| Question | Response |
|--|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes - Circular letter n° 787 dated 11 June 2018 |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | 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). 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. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No, there is no definition provided in the Luxembourg VAT law. |
| 4. 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. |
| 5. Are there any other applicable exemptions relating to crypto assets? | There is no specific exemption applicable to cryptoassets except the one provided in the circular letter n° 787 from the Luxembourg VAT authorities. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent 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. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | The below comments are provided based on the assumption that the sales of NFTs would be made in a B2C context. 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. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No official guidance was published in that respect. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No official guidance was published in that respect. |

Luxembourg

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 10. Are there specific rules for virtual events? | <p>Council Directive 2022/542 of 5 April 2022 amends Directive 2006/112/EC and creates specific rules applicable to virtual events.</p> <p>It states that the place of supply of cultural, artistic, sporting, scientific, educational, entertainment or similar activities, streamed or otherwise made virtually available, supplied to customers not identified for VAT purposes in a Member State (B2C) or to customers identified for VAT purposes in a Member State (B2B) is the place where the customer is established.</p> <p>Member States are required to transpose this directive into national law by 31 December 2024.</p> |

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Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>There currently are no specific provisions or rules in Malaysia that deal with taxation of cryptocurrency or digital currency transactions. Hence, the tax treatment for cryptocurrency activities is based on the existing income tax rules.</p> <p>In this regard, the Malaysian tax authorities (i.e. Inland Revenue Board or “IRB”) 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.</p> |
| 2. What is the scope of taxability? | <p>(i) Income tax</p> <p>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.</p> <p>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.</p> <p>The IRB regards such transactions as falling under the scope of Malaysian income tax if:-</p> <ul style="list-style-type: none"> - the key activities and business operations are performed in Malaysia; or - where there is a business presence in Malaysia. <p>(ii) Capital gains tax</p> <p>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.</p> <p>However, effective from 1 March 2024, capital gains tax will be imposed on the following:</p> <ul style="list-style-type: none"> - Disposal of shares in unlisted companies incorporated in Malaysia; and - Disposal of shares in a controlled company incorporated outside Malaysia (“Foreign Co”) which derives its value from real property in Malaysia. <p>The gains arising from the disposal of digital currencies should not fall within the scope of the new capital gains tax.</p> |

Malaysia

Direct Tax (Continued)

| Question | Response |
|---|--|
| 3. What are the direct tax implications? | <p>Any gains arising from the digital currency transactions will be subject to income tax if the gains are revenue in nature.</p> <p>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.</p> <p>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.</p> <p>For example, a person who actively trades in digital currencies may be viewed as generating revenue while gains derived by an individual who trades occasionally may be viewed as capital gains.</p> <p>On the other hand, digital currencies obtained from a business transaction (e.g. payment received for sale of goods or provision of services) also could be treated as capital investment, subject to meeting the criteria for capital gains.</p> <p>Where gains from digital currency is regarded as capital gain, then such gain should not be subject to income tax.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>None.</p> |
| 5. What are the tax compliance/reporting requirements? | <p>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.</p> |

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Indirect Tax

| Question | Response |
|---|---|
| <p>1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency?</p> | <p>No. Currently, there is no VAT/GST regime in Malaysia. There is, however, a Sales Tax and Service Tax (SST) regime in place. Governed under two different legislations, sales tax applies on manufactured and imported 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 also is not specifically prescribed to be a taxable service under the Service Tax law.</p> |
| <p>2. If “yes”, what is the position for GST / VAT / ESS or equivalent?</p> | <p>N/A</p> |
| <p>3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent?</p> | <p>Non-fungible token (NFT) is not a defined term in any of the sales tax and/or service tax legislations</p> |
| <p>4. Treatment of NFTs sold in exchange for cryptocurrency?</p> | <p>As mentioned under Item 1, the tax authorities have not provided any guidance on the tax treatment for digital assets, including NFTs. It is not clear whether NFTs should be considered as a digital service for this case, as there is no guidance from the tax authorities</p> |
| <p>5. Are there any other applicable exemptions relating to crypto assets?</p> | <p>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.</p> |
| <p>6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes?</p> | <p>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 of such services in relation to matters outside Malaysia.</p> |
| <p>7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs?</p> | <p>Generally, the marketplace operator would be liable to account for service tax on the provision of digital service. However, it is not clear whether NFTs should be considered as a digital service in this case as there is no guidance from the tax authorities</p> |
| <p>8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset.</p> | <p>N/A</p> |

Malaysia

Indirect Tax (Continued)

| Question | Response |
|--|----------|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | N/A |
| 10. 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 – specific guidance was issued by the Maltese Commissioner for Tax and Customs (MCTC) on the Income Tax Treatment of transactions or arrangements involving DLT assets (the “Guidelines”). The Guidelines were published on the MCTC’s website and dated 01/11/2018. There have been no further updates since the release of this version. |
| 2. What is the scope of taxability? | <p>A. Types of DLT Assets for income tax purposes In terms of the Guidelines, DLT assets are categorised as follows:</p> <ul style="list-style-type: none"> - Coins – this category of DLT Asset typically is a cryptocurrency that is designed to be used as a means of payment or medium of exchange, or function as a store of value: functionally they constitute the cryptographic equivalent of fiat currencies. - Financial tokens – this category refers to DLT assets exhibiting qualities that are similar to equities, debentures, units in collective investment schemes, or derivatives, and would be equivalent to such instruments, where they grant rights in a similar fashion as the financial instrument. - Utility tokens – this category refers to DLT Assets whose utility, value, or application is restricted solely to the acquisition of goods or services either solely within the DLT platform on, or in relation to which they are issued or within a limited network of DLT platforms. They do not have any connection with the equity of the issuer and do not have the characteristics of a security. <p>B. General approach to Income tax treatment The Guidelines provide that the tax treatment of any type of DLT asset depends on the purpose for and context in which it is used, rather than the categorisation of the DLT (e.g. as a utility token or as a financial token).</p> <p>The Guidelines provide guidance on: (i) the determination of the value to be used for tax purposes, (ii) records to be kept, and (iii) the treatment of payments made or received using cryptocurrencies.</p> <p>The Guidelines also provide some examples of how the general tax principles apply to certain transactions.</p> |
| 3. What are the direct tax implications? | <p>In general, from a Maltese income tax perspective, transactions in DLTs should be analysed in the same way and manner as any other transaction. The Guidelines provide further the following guidance on the treatment of transactions in DLT Assets:</p> <ul style="list-style-type: none"> - Transactions in Coins – the proceeds received from the sale of coins as part of a trade (and any gains or profits generated from the mining of cryptocurrency) are treated as ordinary income and taxed accordingly. On the other hand, gains derived from the sale of coins which are held for long-term capital purposes (i.e. which are not held as trading stock) should not be subject to Maltese income tax. - Return on financial tokens – The return derived on the holding of financial tokens (which return is similar to dividends, interest, premia, etc.), is treated as income, regardless of whether this return is received in cryptocurrency, fiat currency, or in kind. - Transfers of financial and utility tokens – The charging to Maltese income tax would mainly depend on whether the transfer is considered to be a trading transaction or a transfer of a capital asset. If the transfer is a trading transaction, the consideration will be treated as a receipt of income and taxed accordingly. On the other hand, if the transfer of the token is not a trading transaction, it must be determined whether the token is considered to be a “security” for Maltese income tax purposes (e.g. if the token participates in the profits of the company and is not limited to a fixed rate of return). In such an instance, any gain on the transfers of financial tokens should be subject to Maltese income tax. On the other hand, transfers of tokens that do not fall within the definition of “securities,” should fall outside the scope of Maltese income tax. - Treatment of initial offerings - The proceeds of such an issue are not treated as income of the issuer and the issue of new tokens is not treated as a transfer for the purposes of taxation of capital gains. |

Malta

Direct Tax (Continued)

| Question | Response |
|--|--|
| 4. Are there any other relevant/noteworthy tax considerations? | Refer to the previous section. |
| 5. What are the tax compliance/reporting requirements? | The tax compliance and reporting requirements should be similar to the tax compliance and reporting requirements for non-DLT asset related entities (e.g. in the case of companies, the filing of an annual Maltese income tax return prepared on the basis of audited financial statements, etc.) |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Issued 01/11/2018; link >> https://cfr.gov.mt/en/vat/guidelines_to_certain_VAT_Procedures/Documents/Guidelines%20-%20DLTs%20VAT.pdf |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | In line with case law, the exemptions provided for transactions in currency and related services in terms of the Maltese VAT Act likewise would apply to “transactions, including negotiation” in cryptocurrencies where these have as their sole purpose to serve as a means of payment as an alternative to legal tender. The exchange of cryptocurrencies for other cryptocurrencies or for fiat currency where such exchange constitutes a supply of services for consideration would be covered by these exemptions. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | This likely would depend on the nature of the underlying asset, however, there is no guidance available on the treatment |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | No guidelines |
| 5. Are there any other applicable exemptions relating to crypto assets? | N/A |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | None available. However, there is a definition of exchange platforms which are defined as “online platforms which facilitate peer-to-peer trading or exchange of DLT Assets, whether such transactions involve the exchange of Virtual Currencies with fiat, the exchange of Virtual Currencies for other virtual currencies or the exchange/sale of tokens.” |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | <p>These should follow the normal VAT rules:</p> <p>(a) In so far as the platform’s services involves the provision of an electronic facility whereby holders of DLT Assets can trade/exchange (i.e. a technological service that enables and is a component of the execution of a transaction in DLT Assets by the holders/users) then such services should in principle be regarded as taxable.</p> <p>(b) However, where the DLT Assets being traded classify as “currency” or “securities” for VAT purposes and where the platform’s services go beyond the mere provision of a trading facility, with an increased level of involvement in the transfer or exchange, such services potentially may fall within the exemption.</p> |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | None available |

Malta

Indirect Tax (Continued)

| Question | Response |
|--|----------------|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | None available |
| 10. Are there specific rules for virtual events? | None available |

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Mauritius

Direct Tax

| Question | Response |
|--|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | There is no specific tax authority and guidance under the Mauritius Income Tax Act 1995. Accordingly, any gains from cryptocurrency would follow the general taxation rules, i.e whether a person is deriving income from the cryptocurrency through trading or a venture in the nature of trade. If the cryptocurrency is for pure investment holding, any gains derived on the disposal should not be taxable. The income from the disposal of the cryptocurrency would be deemed to be capital gains. Mauritius does not have any capital gains tax. |
| 2. What is the scope of taxability? | <ul style="list-style-type: none"> - If a person is engaged in activities relating to cryptocurrency with a view to make profits, such income would be subject to tax in Mauritius. - In other words, the badges of trade would apply to determine whether an income from cryptocurrency would be taxable or not. - Moreover, cryptocurrency, termed as Virtual Asset under the Virtual Asset and Initial Token Offering Services (“VAITOS”) Act 2021, is not a ‘security’. <p>Note: Virtual Asset means -</p> <ul style="list-style-type: none"> (a) a digital representation of value that may be digitally traded or transferred, and may be used for payment or investment purposes, but (b) does not include a digital representation of fiat currencies, securities and other financial assets that fall under the purview of the Securities Act. |
| 3. What are the direct tax implications? | Any income from trading in cryptocurrency would be brought to tax in Mauritius. Any expenditure incurred to derive the income would be tax deductible against that income to the extent that the expenditure has been incurred in the production of that income. |
| 4. Are there any other relevant/noteworthy tax considerations? | N/A |
| 5. What are the tax compliance/reporting requirements? | Mauritius operates a self assessment tax system. The corporate tax rate is 15%. Therefore, if a person considers that any profits have been derived from cryptocurrencies through trading, such income should be brought to tax. The payment of the tax would be through the filing of- <ul style="list-style-type: none"> - Quarterly tax returns under the Advance payment tax system, and - An annual Income-tax return |

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Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | There is no specific tax authority and guidance under the Mauritius Value Added Act 1998(VATA). VAT may however be applicable based on the general rule. Note that under the Virtual Asset and Initial Token Offering Services (“VAITOS”) Act 2021, cryptocurrency is termed as Virtual Asset and means - (a) a digital representation of value that may be digitally traded or transferred, and may be used for payment or investment purposes, but (b) does not include a digital representation of fiat currencies, securities and other financial assets that fall under the purview of the Securities Act. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | There is no definition of NFT in the tax law, however NFT is defined in the Guidance Notes “Regulatory Treatment of Non-Fungible Tokens” issued by the Financial Services Commission as a token recorded using distributed ledger technology (such as Blockchain) whereby each NFT recorded is distinguishable from any other NFT, which allows each NFT to be given unique features and to be associated with a distinct physical or virtual asset. The Guidance Notes further provides, by way of definition, for regulation purposes, three scenarios as follows: 1. NFTs as digital representation of collectibles but not used for payment or investment purposes; 2. NFTs displaying characteristics of securities; 3. Other NFTs which fall under the category of virtual assets and which are not digital collectibles and securities). Note: Cryptocurrency is termed Virtual Asset under the Virtual Asset and Initial Token Offering Services Act 2021. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | It may be subject under the general rule. |
| 5. Are there any other applicable exemptions relating to crypto assets? | No |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | N/A |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Virtual asset exchange is defined in the VAITOS Act as a centralised or decentralised virtual platform, whether in Mauritius or in another jurisdiction - (a) Which facilitates the exchange of virtual assets for fiat currency or other virtual assets on behalf of third parties for a fee, a commission, a spread or other benefit; and (b) Which - (i) Holds custody, or controls virtual asset, on behalf of its clients to facilitate an exchange; or (ii) Purchases virtual assets from a seller when transactions or bids and offers are matched in order to sell them to a buyer, and includes its owner or operator but does not include a platform that only provides a forum where sellers and buyers may post bids and offers and a forum where the parties trade in a separate platform or in a peer-to-peer manner. In case there is VAT, under the general principle, the obligation to apply the VAT rests on the seller and the virtual asset exchange (marketplace). |

Mauritius

Indirect Tax (Continued)

| Question | Response |
|---|--|
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | N/A but see above |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No guidance but general VAT rules may apply. |
| 10. 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? | Although there is no legislation specifically addressing the direct taxation on cryptocurrencies and/or crypto assets, a published general note from the Dutch State Secretary of Finance of the Netherlands provides that the regular Dutch tax rules apply to cryptocurrencies and crypto assets. |
| 2. What is the scope of taxability? | <p>Dutch corporate entities Dutch corporate entities are subject to Dutch taxes for their worldwide income. As a result, any income derived from cryptocurrency activities by a Dutch corporate entity is subject to Dutch corporate income taxes.</p> <p>Dutch natural persons Cryptocurrency activities not performed through a Dutch corporate entity 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 situation 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 organisation of capital and labor; 2. Conducting economic activities; 3. With the intention to make profit. <p>If these three cumulative requirements are met, the results derived from cryptocurrency activities are subject to Dutch personal income taxes up to 49.50%. The second situation 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 on one second after 00:00 AM on January 1 of each fiscal year is taken into consideration. If and insofar this fair market value exceeds the applicable threshold(s), 32% (2023 figure) Dutch wealth tax will be due based on a deemed return. These rules are subject to changes following recent case law (we address this in more detail below).</p> |
| 3. What are the direct tax implications? | <p>For Dutch corporate entities, the direct tax implications are that any income derived from crypto activities is included in the Dutch taxable base. For profits up to EUR 200,000 a tax rate of 19% applies and for any profit exceeding this amount a tax rate of 25.8% applies.</p> <p>For Dutch natural persons the direct tax implications are that depending on the actual facts and circumstances either the value of the crypto position could be subject to the Dutch wealth tax, or in case the activities qualify as an active business the income derived from the crypto 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 case law from 2021, the Dutch wealth tax regime will change in the upcoming period to a regime where the actual (un)realised gains are taxed.* However, the rules are intended to enter into force as of 2027. For the interim period, a transitional regime with temporary rules applies.</p> <p>Based on the temporary rules, crypto's qualify as 'other assets' for the Dutch wealth tax regime. Taxation of 'other assets' is based on a deemed (fictional) return of 6.17%. The tax rate on that deemed return is 32% in 2023 and will be 34% in 2024.</p> <p>We note from a completeness perspective that various Dutch lower courts recently ruled that not only the historic rules but also the temporary rules are in violation of the protection of property (article 1 first protocol of the equality and human rights commission) as the taxes due are based on a deemed (fictional) return. This is because the deemed (fictional) return can result in taxes being due while losses were incurred in a certain year. The Dutch Supreme Court has not decided on this matter yet, but based on the lower court cases there could be arguments that for certain situations the actual return should be taxed and not a deemed (fictional) return. It should be reviewed on a case-by-case basis if this position is worthwhile to be taken.</p> <p>* It remains to be determined what elements will be included in the definition of 'actual gains' and how, for example, losses of a certain year could be taken into consideration. This should be determined once a draft and/or final bill of the future legislation is available.</p> |

Netherlands

Direct Tax (Continued)

| Question | Response |
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| 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 1 June 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 1 May of the year following the filing period.</p> |

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Indirect Tax

| Question | Response |
|--|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | The Dutch tax Authorities released several documents which provide insights on the tax authorities' internal view on the VAT treatment of (services regarding) cryptos. Furthermore there is a ruling by a lower court in the Netherlands from early October 2021 that a bitcoin miner has a 75% right to recover input VAT based on statistics, but otherwise there is no formal guidance or article in the law covering cryptocurrency transactions. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | Depending on the facts and circumstances of the specific service that is to be provided. In general, there should be room to apply a VAT exemption for certain services related to cryptos. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | NFTs are not defined in the Dutch VAT Act or any other law, decree or government publication. 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 for Dutch VAT purposes generally are labeled as services. 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 and the likeliest qualification of supplying an NFT (so not minting) is indeed that of an electronic service or ESS. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | A supply of services in exchange for cryptocurrency is in scope for Dutch VAT insofar the cryptocurrency is considered as a means of payment (see paragraph 5 below). 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. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Yes. According to CJEU Hedqvist, 'cryptocurrency' as such is categorised as a means of payment even though it no longer is an official tender. This assessment must be made for each type of token to determine whether that is the case. 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 goods and services. The transfer of the cryptos should then not be 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. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | The Dutch VAT Act provides for a description of an electronic interface, such as a marketplace, platform, portal, or a similar medium.* <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> |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | This depends on the function and involvement of the marketplace within the transaction. 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. If such intervention occurs depends on the contractual agreements between the parties (e.g. can the marketplace influence the price, does the marketplace issue an invoice and provide customer service?). |

Netherlands

Indirect Tax (Continued)

| Question | Response |
|---|---|
| <p>8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset.</p> | <p>In 2023 the Dutch tax authorities published a position paper on the sale of NFT tokenised art and detailed whether the special VAT scheme for works of art was applicable to the sale of this NFT. The special VAT scheme explicitly applies to a supply of goods. The DTA shared its view that a digital artwork, whether or not delivered electronically through an NFT, does not constitute a tangible object subject to human control and therefore is not considered a supply of goods for Dutch VAT purposes.</p> <p>From this position paper we conclude that the tokenisation does not follow the Dutch VAT treatment of the tangible object that is tokenised, but must be determined on its own merits.</p> <p>https://kennisgroepen.belastingdienst.nl/publicaties/kg20920232-btw-tarief-digitale-kunst/</p> |
| <p>9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance?</p> | <p>Not at this stage.</p> |
| <p>10. Are there specific rules for virtual events?</p> | <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. 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? | <p>Yes. While there are no specific laws addressing the taxation of crypto assets (other than to confirm that crypto assets are not financial arrangements for New Zealand tax purposes), the New Zealand Inland Revenue Department (IRD) published guidance on the tax treatment of various crypto assets transactions in September 2020 (https://www.ird.govt.nz/cryptoassets).</p> <p>The IRD 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 crypto asset transactions.</p> |
| 2. What is the scope of taxability? | <p>While there is currently no defined term that dictates the scope of taxability, IRD uses the term "crypto asset" 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 crypto assets are:</p> <ul style="list-style-type: none"> • Crypto assets 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 crypto assets (including selling for fiat currency, trading for another crypto asset, using crypto assets to acquire goods or services, and sending crypto assets as a gift) will be subject to income tax due to an IRD presumption that the crypto assets are generally acquired for the purpose of disposal. There appears to be limited circumstances where IRD will accept that a taxpayer did not acquire the relevant crypto asset 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"> • Crypto assets are specifically excluded from New Zealand's financial arrangements tax rules (with effect from January 1, 2009). • Employers are required to account for either pay as you earn (PAYE) income tax or fringe benefit tax (FBT) in relation to crypto assets provided to employees. • In most cases, crypto assets 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 crypto assets 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 also must keep records of their taxable crypto asset transactions to support the position taken in their income tax return, including the types of crypto assets, dates of transactions, number of units transacted, and the value of the crypto assets in NZD. These records are required to be retained for at least seven years, even once the relevant crypto assets 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 / VAT / ESS or equivalent 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 position for GST / VAT / ESS or equivalent? | Cryptocurrency (as defined) is excluded from GST - cryptocurrency is neither a taxable supply nor an exempt supply. The relevant definitions provide that a crypto asset means a digital representation of value that exists in (a) a database that is secured cryptographically and contains ledgers, recording transactions and contracts involving digital representations of value, that are maintained in decentralized form and shared across different locations and persons; or (b) another application of the same technology performing an equivalent function cryptocurrency means a crypto asset that is not a non-fungible token (NFT) |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | Yes, GST Act: NFT means a crypto asset that contains unique distinguishing identification codes or metadata |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Yes. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Marketplace. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Yes, GST Act 1985 (NZ). electronic marketplace (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 (b) includes a website, internet portal, gateway, store, distribution platform, or other similar marketplace; and (c) does not include a marketplace that solely processes payments |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Barter transaction but cryptocurrency payment leg is disregarded for NZ GST. |

New Zealand

Indirect Tax (Continued)

| Question | Response |
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| 10. Are there specific rules for virtual events? | 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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Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>Capital Gains Tax: Yes, the Capital Gains Tax Act (Cap. C1 Laws of the Federation of Nigeria 2004) (CGTA) as amended by the Finance Act, 2023 (FA) includes provisions relevant to the taxation of digital assets including cryptocurrency. Based on the amended law, gains on disposal of digital assets will be subject to 10% tax on capital gains.</p> <p>Companies Income Tax: There is no specific provision for the taxation of income earned from the trade and exchange of cryptocurrency. However trading income and fees earned from the trading cryptocurrencies are liable to tax at an effective rate of 33% effective September 1, 2023.</p> <p>Gray area in regulatory framework: In February 2021, the Central Bank of Nigeria (CBN) released a circular to banks and other financial institutions stating that trading in cryptocurrencies and enabling payment for cryptocurrency exchanges are prohibited. The CBN also directed all banks and other financial institutions to identify and cancel the accounts of individuals or businesses who deal in cryptocurrencies or run cryptocurrency exchanges. This Circular has not been retracted to date.</p> <p>In May 2022, the Securities and Exchange Commission which is the main regulator of the Nigerian capital market issued guidelines for issuers looking to raise capital from digital asset offerings.</p> <p>In May 2023, the Federal Government released a National Blockchain Policy for Nigeria which gives policy direction and outlines the benefits of blockchain adoption to Nigeria.</p> <p>Subsequently, the FA 2023 (effective September 1, 2023) introduced CGT on gains arising from disposal of digital assets.</p> |
| 2. What is the scope of taxability? | <p>Capital Gains Tax: The Finance Act, 2023 amended Section 3(a) of the CGTA to include digital assets as part of assets liable to CGT. Based on this amendment, gains arising from disposal of such assets became taxable effective from September 1, 2023.</p> <p>Although the term “digital asset” is not explicitly defined in the CGTA, it generally is understood to capture virtual assets such as cryptocurrencies, non-fungible tokens (NFTs), Central Bank Digital Currency (CBDCs) amongst others.</p> |
| 3. What are the direct tax implications? | <p>In the hands of seller (where it does not qualify as trading income):</p> <p>The gains from the sale of digital assets are taxable in the hands of the seller at 10%.</p> <p>CGT returns are to be filed at the earliest of 30 June or 31 December by the person disposing of the property.</p> <p>Losses from the digital assets are deductible against taxable gains from the same type of assets. Losses not utilised can be carried forward for a period of five years after the year they are incurred.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>The Central Bank of Nigeria (CBN) prohibits trading in cryptocurrencies:</p> <p>Despite the inclusion of digital assets as assets chargeable under the CGT Act, the CBN prohibits banks from facilitating cryptocurrency transactions.</p> |

Direct Tax (Continued)

| Question | Response |
|--|--|
| 5. What are the tax compliance/reporting requirements? | <p>In the hands of seller (Where it does not qualify as trading income):</p> <ul style="list-style-type: none"> - As stipulated in Section 2(4) of CGTA, the seller is to compute Capital Gains Tax, file self-assessment returns and pay the tax computed in respect of chargeable assets disposed to the relevant tax authority before the due date. - Due date of filing Capital Gains Tax returns and payment of Capital Gains Tax is the earlier of 30 June and 31 December of the year of disposal of the chargeable asset. - To provide clarity to stakeholders, the FIRS published an information circular on Clarifications on the Provisions of Capital Gains Tax (CGT) Act, No. 2021/09 dated 3 June 2021 ("CGT Circular"). The CGT Circular clarifies that the due dates for filing returns and payment of CGT shall be as follows: <ul style="list-style-type: none"> i. in respect of chargeable assets disposed from 1 December in a year to 31 May of the immediately following year, not later than 30 June; and ii. in respect of chargeable assets disposed from 1 June to 30 November each year, not later than 31 December; iii. in respect of chargeable assets disposed prior to the coming into effect of Finance Act 2020, not later than 20 June 2021. <p>The CGT Circular also states that CGT returns comprises:</p> <ul style="list-style-type: none"> i. Duly filed CGT Self-Assessment Form; ii. Computation of Capital Gains Tax; iii. Evidence of payment of Capital Gains Tax. <ul style="list-style-type: none"> - The penalty for non-compliance with respect to filing CGT returns is as follows: <p>Companies which fail to file CGT returns are liable to a penalty of NGN25,000 for the first month in which the failure occurs and NGN5,000 for each subsequent month in which the failure continues.</p> <p>In addition, a penalty of 10% of the amount of tax payable and interest at the monetary policy rate (currently 18.75%) for late payment or non-payment of CGT applies.</p> |

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Indirect Tax

| Question | Response |
|---|---|
| <p>1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency?</p> | <p>GST/VAT: No – the Value Added Tax (VAT) Act (<i>note 1</i>) does not have any specific provision for the taxation of cryptocurrency in Nigeria. The tax authorities also have not issued any specific guidance on the applicability of VAT on cryptocurrency.</p> <p>Nonetheless, in 2020, the Nigerian Securities Exchange Commission (SEC) issued a statement highlighting that virtual crypto assets are securities, unless proven otherwise by the issuer or sponsor. Based on the VAT Act, securities are exempt from VAT. Thus, sale/transfer of cryptocurrency to the extent that they are considered to be securities and not intangible property would not be liable to VAT in Nigeria.</p> <p>ESS: Our understanding is that ESS relates to employee share plans which seek to compensate staff using digital assets. These digital assets can be referred to as employee benefits. We have not seen an instance where a company provides its staff with cryptocurrency as an ESS however, this could be viewed as a taxable benefit upon vesting of the ESS.</p> <p>In any event, the vesting of the ESS, as established above, should ordinarily not attract VAT.</p> <p><i>Note 1: VAT is governed by Value Added Tax Act Cap V1, Laws of the Federation of Nigeria 2004 (as amended)</i></p> |
| <p>2. If “yes”, what is the position for GST / VAT / ESS or equivalent?</p> | <p>N/A</p> |
| <p>3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent?</p> | <p>Definition: No, non-fungible tokens (NFTs) are not defined by the VAT Act. Although there is no clarification on the nature and taxation of NFTs, money and securities do not constitute taxable goods or services under the VAT definition in Nigeria. Hence this leaves a gray area on whether to classify NFTs as money, securities, or intangible property.</p> <p>Tax treatment: NFTs generally are not treated as securities but commodities. Thus application of VAT on sale of NFTs will be dependent on the characteristics of the NFT.</p> |
| <p>4. Treatment of NFTs sold in exchange for cryptocurrency?</p> | <p>Same as above</p> |
| <p>5. Are there any other applicable exemptions relating to crypto assets?</p> | <p>No, there are no other applicable exemptions relating to crypto assets.</p> |
| <p>6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes?</p> | <p>No, there is no specific definition of marketplace for VAT/ESS/remote services.</p> <p>However, there is a Guideline issued by the tax authority to clarify the obligations, process, and procedures for compliance of non-resident suppliers of goods and services through digital means to businesses or consumers in Nigeria. The Guideline expressly indicates that goods or services supplied through a marketplace / platform (although the term is not defined) is liable to VAT in Nigeria. This aligns with the broad description of services liable to VAT in the Act. This includes all services (except specifically exempt) provided to or consumed by a person in Nigeria regardless of location of service provider.</p> |

Nigeria

Indirect Tax (Continued)

| Question | Response |
|---|--|
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | <p>Based on Section 10 and Section 14 of the VAT Act, a non-resident, local supplier involved in the supply of a taxable good or service in Nigeria is required to account for VAT on its invoice. Furthermore, the tax authority in a published Guideline, appointed all remote marketplace operators to withhold or collect VAT and remit the same to the tax authority.</p> <p>In the event where such VAT is not included in the invoice, the person to whom taxable supply is made in Nigeria is required to self-account for the VAT payable and remit to the tax authority.</p> |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No, there is no specific guidance on the application of VAT on ESS or the tokenisation of real-world assets. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No, there are no specific de-centralised finance rules for VAT and ESS. |
| 10. Are there specific rules for virtual events? | <p>There are no specific rules relating to VAT. However, as stated above, all services provided to and consumed by a person in Nigeria, regardless of where the service is provided from is liable to VAT in Nigeria.</p> <p>As such, payments for virtual events enjoyed by someone in Nigeria will attract VAT.</p> |

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Norway

Direct Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>Yes. Cryptocurrency and other virtual instruments follow the same tax principles as other capital investments. Hence, gains are taxable and losses are deductible.</p> <p>The Norwegian Tax Administration has issued general guidance on taxation and declaration of virtual assets: https://www.skatteetaten.no/en/person/taxes/get-the-taxes-right/shares-and-securities/about-shares-and-securities/digital-currency/ and https://www.skatteetaten.no/en/person/taxes/get-the-taxes-right/shares-and-securities/about-shares-and-securities/digital-currency/tax-regulations-virtual-currency/</p> |
| 2. What is the scope of taxability? | <p>Virtual assets, including cryptocurrency, are treated the same way as other financial assets.</p> <p>Virtual assets are not subject to exemptions or special tax rules that apply to regular currencies, shares, bonds, financial instruments, or other types of assets with special exemptions. Concrete assessments must be made in respect to deducting or booking cost for tax purposes.</p> |
| 3. What are the direct tax implications? | <p>All income from virtual assets is taxable at a rate of 22%</p> <ul style="list-style-type: none"> - In the event of realisation of cryptocurrency, capital gains are taxable and losses deductible. Gain or loss is calculated by the difference between the input value and the exit value. - Income from 'mining' cryptocurrency that is considered business activity will be included in the calculation of personal income for self-employed individuals. - Expenses that incur when generating income from virtual assets are considered capital expenses and can be deducted at a rate of 22%. |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>Norway imposes a wealth tax on personal taxpayers where the net wealth surpasses NOK 1.7m. Virtual assets are included in the assessment of a person's wealth.</p> |
| 5. What are the tax compliance/reporting requirements? | <p>Purchases and mining of virtual assets must be declared in the annual tax return.</p> <p>As a starting point, the Norwegian tax administration pre-files the annual tax return for individuals. However, if the virtual assets have not been reported by any third parties to the tax administration, the taxpayer is required to report this in scheme RF-1159.</p> |

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Norway

Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | No law – The Norwegian Tax Administration has published guidelines on cryptocurrency https://www.skatteetaten.no/en/business-and-organisation/reporting-and-industries/industries-special-regulations/internet/tax-and-vat-on-virtual-currencies/ |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | Cryptocurrency is normally split into two main segments, cryptocurrency mining and cryptocurrency exchange service. Both cryptocurrency exchange service and mining of cryptocurrency such as Bitcoin normally will be regarded as financial services which are exempt from VAT. However in relation to mining, a company that only provides the data power (data centers) will be subject to VAT (25%). |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | The term "NFT" serves as a collective descriptor for artworks created using digital tools. These artworks are digital files generated and stored in a digital format, either as regular data files or on a blockchain. The primary ruling regarding the VAT treatment of NFTs is a statement from the Norwegian Tax Authority from February 2023, where the Norwegian Tax Authorities states that NFT is considered as an “electronic service”. https://www.skatteetaten.no/en/rettskilder/type/uttalelser/prinsipputtalelser/merverdiavgift---avgiftsbehandling-av-digitale-kunstverk-etter-merverdiavgiftsloven--3-7-fjerde-ledd/ As a general rule, electronic services are subject to Norwegian VAT. However, the sale of the copyright) of NFTs is exempt from VAT (same assessment as “traditional art”) if: 1) The NFT in question is considered intellectual property according to the Norwegian Intellectual Property Act, and 2) The NFT is sold by the creator of the NFT (or someone acting on their behalf).’ |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | NFTs sold in exchange for cryptocurrency should be exempt from VAT ref. q3. This is due to the fact that both the purchase and sale of NFTs and cryptocurrency trading are normally exempt from VAT. |
| 5. Are there any other applicable exemptions relating to crypto assets? | N/A |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | N/A |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A |

Norway

Indirect Tax (Continued)

| Question | Response |
|---|---|
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | N/A |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | N/A |
| 10. Are there specific rules for virtual events? | No, the VAT treatment of virtual events will follow the general rules in the VAT act. |

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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? | Domestic tax rules which apply in respect of income accruing from crypto-currency, source of income, and WHT on payments to non-resident entities may be applicable if the crypto related payment can be categorised as one of the specified payments (i.e. Management Fee, services, royalties, payment for Computer software etc.) on which WHT is applicable. |
| 3. What are the direct tax implications? | Tax applicable at baseline rate of 15% (corporate tax payers) WHT 10% (if applicable as per domestic rules) |
| 4. Are there any other relevant/noteworthy tax considerations? | N/A |
| 5. What are the tax compliance/reporting requirements? | Oman taxpayer - income from a cryptocurrency transaction will be part of annual tax return which is due four months after the end of the financial year). Non-resident recipient - resident party to file a WHT return 14 days following the month in which the payment is made. |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | No. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | No. |
| 5. Are there any other applicable exemptions relating to crypto assets? | No. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | <p>Yes, Oman Value Added Tax Executive Regulations (Article 29)</p> <p>Electronically Supplied Services mean, in application of Item (4) of Article (24) of the Law, services supplied directly through the internet or an electronic network, where the supply of the services is principally automatic and requires minimum human interference and can be supplied only with the use of information technology, and include in particular the following services:</p> <ol style="list-style-type: none"> 1- Supply of digitised products generally including software and changing or upgrading a software. 2- Providing or supporting a business or personal presence on an electronic network such as a website or a webpage. 3- Services automatically generated from a computer via the Internet or an electronic network in response to specific data input by the recipient. 4- Transfer of the right to put goods or services up for sale on an internet site operating as an online market on which potential buyers make their bids by an automated procedure for a consideration and on which the parties are notified of a sale by electronic mail automatically generated from a computer. 5- Internet Service Packages (ISP) of information in which the telecommunication component forms an ancillary and subordinate part (i.e., packages going beyond mere Internet access and including other elements such as content pages giving access to news, weather or travel reports, playgrounds, website hosting and access to online debates). 6- Website hosting and webpage hosting. 7- Providing digitised content of books and other electronic publications. 8- Providing access and subscriptions to online newspapers and journals, online news, traffic information and weather reports. 9- Accessing or downloading music, jingles, excerpts, ringtones, or other sounds. 10- Accessing or downloading films, video, games, including online games that are dependent on the internet, or other similar electronic networks, where players are geographically remote from one another. |

Indirect Tax (Continued)

| Question | Response |
|---|--|
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? (Continued) | <p>11- Supply of distance education services.</p> <p>12- The supply of advertising space on a website and the related rights to that advertisement.</p> <p>13- Live broadcast via the internet.</p> <p>Based on the e-commerce VAT guide released by the Oman Tax Authority - E-commerce means the supply of goods and services through electronic means such as websites, electronic platforms, social media stores, or an electronic application. The online marketplace, forum, or similar applications may act as an agent or intermediary to facilitate transactions of selling goods or services from the supplier to the customer that allow the completion of the transaction through them.</p> |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A. There are no provisions around this at the moment. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No, not at this stage. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No, not at this stage. |
| 10. Are there specific rules for virtual events? | As per Article 30 of the Oman VAT Executive Regulations. The place of supplying the Electronically Supplied Services is located in the place of actual usage of these services or enjoying them. |

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Panama

Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | No – However there was a Bill approved in the National Assembly regarding crypto assets which was not approved by the Executive Branch and ultimately deemed “Unjustifiable” by the Supreme Court of Justice (August 9, 2023). The Court found the Bill to be unjustifiable because in the opinion of the Court certain procedures were not appropriately followed; the ruling was not specifically due to the purpose or nature of the Bill. |
| 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? | 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/supervision of the Superintendency of Banks of Panama (SBP) or the Superintendency of the Securities Market of Panama (SMV) considering cryptocurrencies are not securities according to the regulation (these Regulators emphasise that cryptocurrencies are not regulated in Panama and therefore there is a risk in using these cryptocurrencies). Finally, it should be noted that recent opinions state that authorised traders cannot trade cryptocurrencies. 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. |
| 5. What are the tax compliance/reporting requirements? | N/A |

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Panama

Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | No. However the Bill was approved in the National Assembly regarding crypto assets. It was not approved by the Executive Branch and ultimately deemed “Unjustifiable” by the Supreme Court of Justice (August 9, 2023). The Court found the Bill to be unjustifiable because in the opinion of the Court certain procedures were not appropriately followed; the ruling was not specifically due to the purpose or nature of the Bill. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | Not currently regulated but in theory “no” as it is an intangible. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Not regulated. |
| 5. Are there any other applicable exemptions relating to crypto assets? | N/A |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | N/A |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Not regulated. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not regulated. |
| 10. Are there specific rules for virtual events? | Not regulated |

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Philippines

Direct Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | Gains from cryptocurrency transactions are subject to general tax laws. As of this writing, there are no special tax laws or regulations that specifically provide for the tax treatment of cryptocurrencies. |
| 2. What is the scope of taxability? | <p>The entire income arising from cryptocurrency transactions within a taxable period becomes part of the taxpayer's gross income for that period. Under general tax law, gross income includes all income derived from whatever source (subject to exceptions).</p> <p>However, the scope of the Philippines' tax jurisdiction differs based on the taxpayer's tax residency and the situs of the source of income, as follows:</p> <ul style="list-style-type: none"> • An individual who is a citizen of the Philippines and 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; • A 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 or not engaged in trade or business in the Philippines, is taxable only on income derived from sources within the Philippines. |
| 3. What are the direct tax implications? | <p>The income covered in the immediately-preceding item are generally treated as follows, subject to exceptions (e.g. certain types of income which are subject to a fixed withholding tax rate):</p> <ul style="list-style-type: none"> • For citizens of the Philippines and resident alien individuals: A graduated rate ranging from 0% to 35% or an option to avail an 8% tax on gross sales/gross receipts and other non-operating income in excess of P250,000 for purely self-employed individual and/or professionals who gross sales or gross receipts and other non-operating income does not exceed the VAT threshold; <p>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), and non-resident foreign corporations: The same graduated rate ranging from 0% to 35%.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>Depending on the tax residency of the income earner, specific types of income are subject to the withholding tax system wherein the direct income tax is captured by the withholding agent, who then remits the same to the tax authority. For example, a domestic corporation paying royalties to a resident Filipino citizen for their musical work must withhold withholding tax at a rate of 20% which must be remitted to the Tax Authority. Concurrently, the withholding agent also must issue a withholding tax certificate to the income earner.</p> <p>Additionally, individuals and companies listed in a published list of top withholding agents (TWAs) are required to withhold income at a rate of 1% for goods and 2% for services. Thus, TWAs making payments through a cryptocurrency transaction may be required to deduct 1% withholding tax for goods and 2% withholding tax for services.</p> <p>Cryptocurrency payments made to a non-resident foreign corporation or a non-resident alien individual generally are subject to withholding tax at a rate of 25%. The foregoing rates are just the general rule, and it needs to be emphasised 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. The ITRs 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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Philippines

Indirect Tax

| Question | Response |
|--|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | 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 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. As such, transactions involving cryptocurrencies may be subject to value added tax (VAT), the Philippine equivalent of GST. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | Exchanges involving cryptocurrencies may be deemed sale of intangible goods subject to 12% value added tax (VAT) if the seller is a VAT-registered person. (Non-VAT taxpayers may be subject instead to percentage tax, which is a direct tax.) As a development, there are pending bills which propose to charge non-resident service providers with the obligation to assess, collect and remit VAT on digital service or goods, but these are still pending as of date. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No. There is no special recognition of Non-Fungible Tokens (NFTs) in Philippine tax laws. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Cryptocurrencies and other digital assets are considered as property within the meaning of Anti-Money Laundering laws and regulations. |
| 5. Are there any other applicable exemptions relating to cryptoassets? | There are no special exemptions on crypto assets. However, there are general tax exemptions depending on the nature of the transaction, such as VAT exemption on export sales. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Yes. Revenue Memorandum Circular No. 55-2013 defined the following types of transactions under which ESS/remote services may fall: a. Online shopping or online retailing; b. Online intermediary service; c. Online advertisement/classified ads; and d. Online auction. There is a pending legislative bill imposing VAT on digital services wherein “electronic platform” is considered as an intermediary that connects sellers and consumers (usually a component of ESS/remote services marketplace). The bill proposes to impose taxes on 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. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | The seller must generally account for indirect taxes (VAT) on the sale of NFTs. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | There is no general guideline or regulations on the tokenization of real-world assets. |

Philippines

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Currently, there are no specialized VAT rules or regulations on decentralized finance. |
| 10. Are there specific rules for virtual events? | Currently, there are none but there is a pending bill imposing VAT on digital services but may not cover online courses and webinars. |

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Direct Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | Yes - there are tax provisions regulating taxation of an income from so-called virtual currency in the Polish CIT Act and the Polish PIT Act, in effect from 1 January 2019. |
| 2. What is the scope of taxability? | <p>Under Article 7b.1.6) of the Polish CIT Act, income from exchanging virtual currency for means of payment, goods, services or property rights other than virtual currency, or from settling other obligations with virtual currency is viewed as an income from capital gains.</p> <p>Under Article 17.1.11 of the Polish PIT Act income from disposal of virtual currency is viewed as an income from capital gains.</p> <p>Key criteria in definition of virtual currency Virtual currency - means a digital representation of value that is not: (a) a legal tender issued by the National Bank of Poland, foreign central banks or other public administrations, b) an international unit of account established by an international organisation and accepted by individual countries belonging to or cooperating with that organisation, c) electronic money within the meaning of the Payment Services Act of August 19, 2011, d) a financial instrument within the meaning of the Act of July 29, 2005 on trading in financial instruments, (e) a bill of exchange or check - and is exchangeable in business for legal tender and accepted as a medium of exchange, and may be electronically stored or transferred or may be subject to electronic commerce.</p> |
| 3. What are the direct tax implications? | <p>In the hands of seller: <u>Income from disposal of virtual currency</u> is taxable at 19%.</p> <p>Income from paid disposal of virtual currencies does not combine with other income (revenue) of the taxpayer.</p> <p><u>Tax deductible costs related to income from disposal of virtual currency</u> are documented expenses directly incurred for the acquisition of virtual currency and costs associated with the disposal of virtual currency.</p> <p>Expenses incurred in converting a virtual currency into another virtual currency do not constitute a tax deductible expense.</p> <p>Tax deductible costs related to income from disposal of virtual currency are deducted in the tax year in which they were incurred. The surplus of costs of obtaining revenues from cryptocurrency obtained in the given tax year, increases the costs of obtaining revenues incurred in the next tax year - <u>there is no tax loss concept applicable to cryptocurrency.</u></p> <p>In the hands of Exchanges/ Brokers (including Foreign Exchanges/ Brokers): <u>General tax rules applicable to intermediaries.</u></p> |

Poland

Direct Tax (Continued)

| Question | Response |
|--|---|
| 4. Are there any other relevant/noteworthy tax considerations? | <p>Sale and exchange of virtual currencies is exempt from Polish civil law activities tax (CLAT) under Article 9.1a. of the CLAT Act.</p> <p>The taxpayer is obliged to report deductible costs related to income from disposal of virtual currency in annual tax return, also if in the tax year it did not generate revenues from sale of virtual currencies.</p> |
| 5. What are the tax compliance/reporting requirements? | <p>In the hands of seller:</p> <ul style="list-style-type: none">- No corporate income tax advances are paid on the income obtained from the sale of virtual currencies The taxpayer is obliged to pay the tax within the statutory deadline for submitting this return.;- Filing annual Income-tax return <p>In the hands of Exchanges/ Brokers (including Foreign Exchanges/ Brokers):</p> <p><u>The general tax rules applicable to intermediaries.</u></p> |

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Indirect Tax

| Question | Response |
|--|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | <p>Not specifically regulated or defined in VAT regulations.</p> <p>There are only tax rulings issued by Polish tax authorities in individual cases of taxpayers.</p> |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>As a rule, exchange of fiat currency for units of crypto asset that qualifies as an alternative means of payment, e.g. bitcoin, and vice versa qualifies as financial services that are exempted from VAT (in this regard, Polish tax practice is in line with the CJEU case C-264/14 Skatteverket).</p> <p>However, the type of token should be analyzed on a case by case basis, as not every crypto asset will be considered an alternative means of payment.</p> <p>Crypto assets that cannot be deemed as means of payment may be classified as vouchers, financial instrument or other asset right.</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | <p>No definition of NFTs in Polish VAT regulations.</p> <p>Based on the current Polish tax practice, NFTs are treated as an asset right and the sale of which constitutes the provision of services subject to VAT.</p> |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>Should the crypto asset qualify as means of payment, the NFT would be subject to VAT while the payment with the crypto asset would be disregarded.</p> <p>Should the crypto asset not qualify as a means of payment, the transaction would likely be deemed as a barter transaction where the NFT would be subject to VAT.</p> <p>Whether the crypto asset would be subject to VAT depends on the nature of the crypto asset.</p> |
| 5. Are there any other applicable exemptions relating to crypto assets? | <p>Due to the diversity of business transactions, we suppose that certain financial transactions in respect to crypto assets (such as options over crypto assets) could be VAT exempt.</p> <p>There are, however, no legal definitions or other guidelines in this respect.</p> <p>Therefore, the VAT treatment of exchange crypto assets should be assessed on a case by case basis.</p> |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | <p>There is no exact definition of marketplace in Polish VAT regulations.</p> <p>However, following the VAT e-commerce explanatory notes of the European Union, a marketplace falls under the definition of electronic interface.</p> <p>An electronic interface is 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.</p> |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | <p>In many cases this would be the marketplace.</p> <p>To be reviewed on a case by case basis.</p> |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | <p>No specific VAT rules or official guidance for tokenisation of real-world assets.</p> |

Poland

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No specific VAT rules or official guidance for De-Fi. |
| 10. 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 |
|---|---|
| <p>1. Is there tax authority guidance or direct tax law on cryptocurrency?</p> | <p>Yes. The 2023 State Budget (which entered into force on 1 January 2023) created a Personal Income Tax (PIT) and Stamp Duty (SD) regime for gains and income arising from crypto assets.</p> <p>For the purposes of PIT and SD taxation, the new law created a definition of crypto assets, which includes all digital representations of values or rights that can be transferred or stored electronically using distributed ledger technology or similar. Unique and non-fungible crypto assets (e.g. NFTs) are excluded from this definition.</p> |
| <p>2. What is the scope of taxability?</p> | <p>Corporate Income Tax (CIT) No specific scope of taxability applies to crypto assets under the Portuguese CIT rules. Nonetheless, profits generated by crypto assets may give rise to taxable events under the CIT general provisions.</p> <p>Personal Income Tax (PIT) The income arising from crypto assets may be taxed under three different income categories (self-employment income, investment income or capital gains), depending on the nature of the transactions. Please see point 3. below for further clarifications.</p> |
| <p>3. What are the direct tax implications?</p> | <p>Corporate Income Tax (CIT) There is no specific guidance and in general, no specific provisions apply to crypto assets, nonetheless, profits generated from crypto assets generally are subject to CIT. In the 2023 State Budget, the simplified taxation regime for taxpayers with low turnover was adjusted to be aligned with the PIT regarding the coefficients related to crypto assets related business income.</p> <p>Personal Income Tax (PIT)</p> <p>1) Investment income The validation of crypto assets transactions through consensus mechanisms (mining and on-chain staking), are considered commercial and industrial activities, and the related income is subject to PIT accordingly within the scope of the Category B of income (Business and Professional Income) For the purposes of the simplified taxation regime, the taxable income is computed by applying the coefficient of 0.15 to the sales of crypto assets. The coefficient is 0.95 in the case of mining of crypto assets (penalization of mining activities due to its non-sustainable impact). The income is deemed realised at the moment of the transfer of the crypto assets for consideration. Additionally, both the termination of the (self-employment) activity and the cease of Portuguese residency are equivalent to transfers for consideration (exit tax).</p> <p>2) Investment income Any type of remuneration derived from investment of crypto assets (as defined by the Portuguese tax legislation) qualifies as investment income for PIT purposes. As a rule, investment income is liable to a 28% flat tax rate, or 35% in case the income is deemed as sourced from a “blacklisted” jurisdiction. However, in case the income is received in the form of crypto assets, capital gain (rather than investment income) taxation applies. In this case, the taxation is deferred to the moment in which the crypto assets received are transferred for consideration and some exclusions may apply as referred below.</p> |

Portugal

Direct Tax (Continued)

| Question | Response |
|--|---|
| <p>3. What are the direct tax implications? (Continued)</p> | <p>3) Capital gains Gains obtained with the transfer for a consideration of crypto assets are regarded as capital gains for PIT purposes.</p> <p>The taxable gain corresponds to the difference between the sales proceeds (presumably the market value at the time of the transfer) and the acquisition value. Necessary and effective expenses incurred with the acquisition and transfer are deductible. The FIFO (First In, First Out) method is used to determine the taxable income.</p> <p>The positive balance between capital gains and capital losses is subject to a flat rate of 28%. The taxpayer can opt to aggregate the amount to the remainder income and have it rather taxed at progressive rates up to 48%, plus solidarity tax when due.</p> <p>Any capital loss on a transfer of crypto assets can be carried forward for five years, when the taxpayer opts to aggregate its income.</p> <p><u>Exclusions</u> Gains arising from the transfer for a consideration of crypto assets held for 365 days or more are excluded from taxation. Losses also are disregarded. In the case of crypto assets acquired prior to 1 January 2023, on the computation of this period of time it is relevant the holding period that has already elapsed.</p> <p>No taxation arises on crypto assets held for less than 365 days whose consideration on a transfer is also crypto assets. The acquisition value of the crypto assets received is the same as that of the crypto assets delivered.</p> <p>However, the exclusions above are not applicable if the taxpayers or the paying entity are not tax resident in another Member State, or in a State member of the European Economic Area or in another State with which a convention for the avoidance of double taxation, or a bilateral agreement or a multilateral agreement is in force and foreseen the exchange of information for tax purposes.</p> <p><u>Exit tax</u> The cease of Portuguese tax residency is equivalent to triggering a transfer for a consideration, which is taxed as a capital gain.</p> |
| <p>4. Are there any other relevant/noteworthy tax considerations?</p> | <p>As a rule, taxation only applies to exchanges for fiat currency, and there is an exemption on capital gains on assets older than 365 days or more. There is now an exit tax. There remains several open topics for which there is still no clear answer (for example, in terms of the type of reports to be made in the annual personal income tax return and on how to comply with other obligations [e.g., invoicing] associated with Business and Professional activity/income), so it is expected that there will be further developments in the coming months.</p> |
| <p>5. What are the tax compliance/reporting requirements?</p> | <p>In the hands of the taxpayer: filing annual income-tax returns.</p> <p>In the hands of Exchange/Broker: there may be some tax reporting obligations for natural or legal persons, organisations and other entities without legal personality, all providing services of custody and management of crypto assets on behalf of third parties, or managing one or more platforms for the negotiation of crypto assets. However, currently, there is no tax authority guidance on how to proceed.</p> |

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Portugal

Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | 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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | There is no definition of NFTs. In principle, they are subject to VAT. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | As referred above, it is likely that the supply of NFT is subject to VAT. Cryptocurrency payment is likely to be exempt. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Payment and currency exchange services are exempt from VAT. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Yes, in the Portuguese VAT Code. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | As a rule, in case of a local supply of services, the service provider / seller is liable to pay the VAT due. Reverse charge mechanism may apply in case of cross border B2B transactions. However, in certain conditions, the Portuguese VAT legislation foresees a joint liability of the marketplace operator. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Not at this stage. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage. |
| 10. 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? | <p>No, there is no guidance from a corporate tax perspective and there is no reference to a specific cryptocurrency direct tax regime either under the State of Qatar tax regime or Qatar Financial Center (“QFC”) tax regime.</p> <p>The State of Qatar has a mainland tax regime which is applicable to taxpayers in the mainland, and it has a special regime known as QFC tax regime that is applicable only to the taxpayers licensed under the QFC Authority.</p> <p>Depending on where the taxpayer is registered/licensed, taxation of crypto assets should follow the general principles.</p> <p>The State mainland tax regime is genuinely based on a territoriality system with some exceptions. Taxation follows accounting principles (with some adjustments).</p> <p>The QFC tax regime also is based on the territorial system with certain categories of profit deemed to be local source and a very small number of categories of income deemed to not be local source.</p> <p>Under the QFC tax regime, the accounting profit is the basis of calculating chargeable profits which, after the deduction of any losses and group relief to arrive at taxable profits, is the figure used to calculate tax due.</p> <p>The difference between accounting profit and chargeable profit are the specific adjustments (such as depreciations, disallowed costs etc) to be made in accordance with the QFC tax regulations.</p> |
| 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 |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | There is no GST / VAT / ESS regime in Qatar. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | N/A |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | N/A |
| 5. Are there any other applicable exemptions relating to crypto assets? | N/A |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | N/A |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | N/A |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | N/A |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | N/A |
| 10. Are there specific rules for virtual events? | N/A |

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? | Not applicable. |
| 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 GST / VAT / ESS or equivalent law on cryptocurrency? | No, the KSA VAT law and its Implementing Regulations do not contain any specific treatment for cryptocurrency neither any guidance has been issued by the tax authority. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | NFTs has not been defined neither any specific tax treatment is provided by the tax authority. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | No such treatment has been defined. |
| 5. Are there any other applicable exemptions relating to crypto assets? | No specific treatment/ exemption has been mentioned in the prevailing VAT legislation. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | The tax authority has provided the following definition in one of the guides issued: “An electronic website, electronic marketplace or similar forum which facilitates the sale of goods or services from a supplier to a customer and allows a transaction to be completed through it. An Online interface or Portal acts as an Agent or intermediary. There are special rules to determine in which capacity it acts for VAT purposes. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | No specific guidance is available at the moment. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No specific guidance is available at the moment. |

Saudi Arabia

Indirect Tax (Continued)

| Question | Response |
|--|---|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage |
| 10. Are there specific rules for virtual events? | There are no specific rules provided by the tax authority, however, where the virtual events satisfy the concept of 'electronic services', due consideration need to be given to the special place of supply concept as well as registration status of the recipient of services. |

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Direct Tax

| Question | Response |
|---|---|
| <p>1. Is there tax authority guidance or direct tax law on cryptocurrency?</p> | <p>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).</p> |
| <p>2. What is the scope of taxability?</p> | <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 three types: (i) payment tokens; (ii) utility tokens; and (iii) security tokens. The general income tax treatment is summarised below.</p> |
| <p>3. What are the direct tax implications?</p> | <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. • A business 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. An issuer who incurs interest, or other distributions may claim a 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 depends on whether the security token is capital or revenue in nature. |

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 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 also may be subject to income tax on subsequent realisation gains.</p> <p>(ii) Receiving payment tokens through mining. 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 tokens through airdrop 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 was, it could be viewed as income subject to tax. On the other hand, if it was not, it should not be regarded as income of the recipient and hence not taxable.</p> <p>(iv) Receiving payment token through hardfork This can be viewed as a windfall to the recipient as he 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 / VAT / ESS or equivalent law on cryptocurrency? | Yes – the Goods and Services Tax Act 1993 (“GST Act”) 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 |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | 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 January 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 “DPT” remain unchanged. The definition of DPT is legislated in the GST Act. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No, NFT is not defined in the GST legislation. Currently, only the term “digital payment token” is defined in the GST Act, NFTs do not qualify as DPTs based on the legislative definition of DPT as they are non-fungible. Hence, GST at the standard rate (8% for 2023 and to be increased to 9% with effect from 1 January 2024) will apply unless the supply qualifies for zero-rating. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <u>GST treatment on the supply of NFT</u> Please refer to question 3 above. <u>Supply of NFT, cryptocurrency used as payment is not a DPT</u> Barter transaction (i.e., seller of NFT is making a supply to the customer; the customer is making a supply of cryptocurrency to the seller). <u>Supply of NFT, cryptocurrency used as payment is a DPT</u> The customer is not 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. |
| 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Yes, the term “electronic marketplace” is defined under the Seventh Schedule to the GST Act as a medium that: (i) allows the suppliers to make supplies available to customers by electronic means; and (ii) is operated by electronic means. The definition excludes any medium that is solely for processing any payment for any supply. The operator of an electronic marketplace will be regarded as the supplier, if any of the following conditions are met: - The operator authorises the consideration for the supply to be charged to the customer; - The operator authorises 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.); - The operator sets the terms and conditions under which the supply is made (e.g. having control over pricing etc.); - There is documentation provided to the customer identifying the supply as being made by the operator and not the underlying supplier; or - The operator and the underlying supplier contractually agree that the operator is liable for GST |

Singapore

Indirect Tax (Continued)

| Question | Response |
|---|---|
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Usually the marketplace operator, subject to the operator meeting the conditions to be regarded as supplier (refer to question 6 above). The obligation applies to the supply of NFTs made on behalf of the overseas suppliers listed on the operator's platform to non-GST registered customers ("B2C") in Singapore. This is unless the marketplace opts to (and has obtained approval from the tax authority) to charge and account for GST on all B2C remote services made by both local and overseas suppliers through the marketplace. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | None currently. The token would generally be regarded to have a different character/nature from the underlying real-world asset. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not at this stage. |
| 10. Are there specific rules for virtual events? | No. However, there is a need to consider the GST digital services rule (which was effective on 1 January 2020) and GST remote services rules (which was effective 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. 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. 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. |

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Direct Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | Yes. Taxation of cryptocurrencies is governed by the Slovak Income Tax Act and guidelines issued by the Slovak Tax authorities. |
| 2. What is the scope of taxability? | <p>Under the Slovak Income Tax Act, crypto related transactions are subject to taxation both for legal entities and individuals, including:</p> <ul style="list-style-type: none"> income from the sale of virtual currency, exchange of virtual currency for property/ services, exchange of virtual currency for another virtual currency. <p>Similarly, income related to the activities with crypto currencies (remuneration for mining, wallet etc.) also is subject to tax.</p> <p>The income generally may be decreased by related expenses.</p> |
| 3. What are the direct tax implications? | <p>Legal entities Profit from the crypto transactions is taxable at the level of a legal entity, subject to 21 % taxation (15 % for small entities with turnover under certain limits).</p> <p>Individuals Profit from the crypto transactions is subject to personal income tax 15 % / 19 % / 25 %. Additionally, those profits also are subject to health insurance contributions 14 %.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>Income Tax legislation will be subject to significant changes from 1 January 2024 (discussions still ongoing in December 2023):</p> <ul style="list-style-type: none"> Definition of crypto currency will be introduced. the tax rate for individuals should be decreased to 7% for income from the sale of virtual currency after one year since its acquisition (if the currency has not been part of the business assets) Income from the transactions with cryptocurrencies should be excluded from the health insurance contributions (currently 14 %). Exchange of virtual currency for another virtual cryptocurrency should be subject to tax only if exchanged for stablecoin. The tax exemption of the income from the exchange of a virtual currency for goods or provision of service for physical persons should be introduced, if the aggregate of this income, decreased by related costs, does not exceed 2 400 EUR in the taxation period. |
| 5. What are the tax compliance/reporting requirements? | No specific compliance / reporting obligations (income from the transactions with cryptocurrencies should be reported in regular income tax returns under general conditions). |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes, the tax authorities issued several guidelines (legally non-binding) related to the VAT treatment of cryptocurrencies. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>Cryptocurrency (as defined) is generally excluded from the VAT as it does not represent taxable supply. However, supply of goods or services, where the remuneration is received in cryptocurrency, is subject to VAT. Similarly, exchange of cryptocurrencies for another cryptocurrency is subject to VAT (VAT exempt service).</p> <p>The relevant definitions are:</p> <p>Crypto-assets generally mean a digital expression of value or rights that can be transferred and stored electronically using "distributed ledger" or similar technology. Crypto-assets cannot be considered as securities or financial instruments.</p> <p>Cryptocurrencies are crypto assets that function exclusively as a unit of account and means of payment for VAT purposes.</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No specific guideline related to non-fungible tokens (NFTs) has been released. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | No guidelines with respect to NFTs. Generally, exchange of cryptocurrency for another cryptocurrency is treated as a VAT exempt service. |
| 5. Are there any other applicable exemptions relating to crypto assets? | If providers of digital wallets provide services for consideration (e.g. managing, keeping a digital wallet, storing and transferring cryptocurrency) and there is a direct connection between this consideration and the services provided, such service is VAT exempt. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Yes, the specific concept of electronic marketplace is applied when a taxable person facilitates the B2C supply of goods in the territory of the European Union ("EU") by a taxable person not established in the territory of the EU through the use of an electronic communication interface. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Generally, the electronic marketplace has the obligation to account for VAT in B2C supplies realised by a non-EU entity as described above. However, no specific guidelines related to NFTs with respect to the electronic marketplace have been released. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No specific guidance. |

Slovakia

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No specific guidance. |
| 10. Are there specific rules for virtual events? | No specific guidance. Based on a proposal of VAT law amendment, virtual events provided B2B or B2C should be taxable (subject to VAT) in the state where the customer is seated / established. |

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Slovenia

Direct Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>The Slovenian tax authorities have issued general guidance on the tax treatment from Personal Income Tax, Corporate Income Tax and from the Financial Services Tax perspective.</p> <p>- The Slovenian government already has received various proposals for laws on this topic, but to date none of them have been implemented.</p> |
| 2. What is the scope of taxability? | <p>Income derived from trading and mining of virtual currencies (i.e. crypto tokens), receipt of payments or other income, payment for a service performed in virtual currencies are all considered within the scope of taxability.</p> |
| 3. What are the direct tax implications? | <p>Personal income tax:</p> <ul style="list-style-type: none"> - Personal income tax is not paid on capital gain from disposal of virtual currencies if the currencies are not considered as capital (per Article 93 of the Slovene PIT Act) or are considered as derivative financial instruments, under the condition that the natural person does not generate such income in connection with a business activity. Income generated by a natural person by virtual currency mining is taxed in accordance with the PIT Act either as other income or income from business activity. - In the taxation of a natural person who receives such tokens for free upon the issue of new tokens, the general bases for income taxation as per the Personal Income Tax Act are considered (i.e. with regard to the nature of income that was paid as a token and with regard to the relationship between payer and recipient resulting in the provision of income). - A natural person performing a business activity is obliged to pay personal income tax on income from business activity, and to calculate and pay social security contributions. An individual's income derived from virtual currency trading or mining is considered as income from business activity when it is achieved by the permanent, independent and autonomous performance of an activity. <p>Corporate income tax:</p> <ul style="list-style-type: none"> - Possession of Bitcoins and other virtual currencies in business ledgers must be reported as financial investments valued at fair value through P/L statement and noted in the balance sheet on a certain cut-off date. |
| 4. Are there any other relevant/noteworthy tax considerations? | N/A. |
| 5. What are the tax compliance/reporting requirements? | <p>Personal income tax:</p> <ul style="list-style-type: none"> - The tax return form for assessing personal income tax prepayment for other income must be submitted by the taxable person to the tax authority within fifteen days of the date of receiving income. |

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Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | <p>The Slovenian tax authorities have issued general guidance on the tax treatment from the Value Added Tax perspective and from the Financial Services Tax perspective.</p> <p>The Slovenian government already has received various proposals for laws on this topic, but to date none of them have been implemented.</p> |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>The commission or payment for exchanging a traditional currency for a virtual currency or vice versa is exempt from VAT.</p> <p>Virtual currency mining is a transaction not subject to VAT.</p> <p>The services of exchange platforms which operate as brokers are subject to VAT.</p> <p>Digital wallet services performed for payment are exempt from VAT payment.</p> <p>If a start-up company issues a crypto token when it is still not known for which products and services the token could be exchanged in the future, the condition of direct connection between the performed service and received counter-value is not fulfilled yet and the transaction of token issuance is not subject to VAT. When the crypto token is used to pay for individual products and services, these transactions will be subject to VAT (considering the nature of the supply of goods or services, transactions will be taxed at the prescribed tax rate or exempt from VAT payment).</p> <p>If a certain functionality is already installed in issued tokens – meaning that by purchasing the tokens, supporters acquire the option to use a product or service (in the initial phase, supporters receive them at a lower price than users who buy them later) or they can be considered as a security that generates some kind of yield for investors (payment of dividends or distribution of profit from operations), or they can even have a hybrid character (the functionality and character of a security) – and in such a context, a direct connection between the performed service and received payment can be determined, then the token transaction is subject to VAT, whereby the taxation depends on the character of an individual token and is assessed on a case-by-case basis.</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No guidance available. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | No guidance available. |
| 5. Are there any other applicable exemptions relating to crypto assets? | No. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | No guidance available. |

Slovenia

Indirect Tax (Continued)

| Question | Response |
|---|------------------------|
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No guidance available. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No |
| 10. Are there specific rules for virtual events? | No |

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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 or crypto assets are financial instruments. As cryptocurrencies are neither legal tender in South Africa nor widely used and accepted as a medium of payment or exchange, cryptocurrencies are not regarded by the South African Revenue Service ('SARS') as a currency for income tax or Capital Gains Tax ('CGT') purposes. |
| 3. What are the direct tax implications? | The tax treatment of any transaction must be considered on a case-by-case basis. For example, the income tax treatment of gains or losses derived from mining or trading cryptocurrencies (as opposed to holding the assets for long term capital appreciation) and will be determined based on general revenue vs capital considerations. Goods or services purchased (or rather traded) for cryptocurrency will be barter transactions and will be taxed accordingly. SARS has further confirmed that taxpayers are entitled to claim expenses associated with crypto assets receipts or accruals as deductions, provided that such expenditure meets the requirements of the general deduction provisions of the Income Tax Act 58 of 1962 ('the Act'), which (amongst others) includes requirements that the expenditure must be incurred in the production of the taxpayer's income and for purposes of his/her trade. |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>It is worth noting that where crypto asset gains or losses are classified as revenue in nature, crypto trading losses can be deducted in accordance with the applicable provisions of the Act. However, in this regard, it is important to note that since the acquisition and disposal of a crypto asset has been listed as a 'suspect trade', crypto losses will be ring-fenced (i.e., crypto losses can only be set off against future crypto gains and not gains derived from any other trade) for natural persons where the maximum marginal rate of tax (i.e., 45%) is applicable to them, unless there is a reasonable prospect of deriving taxable income within a reasonable period having regard to certain predefined factors contained within the Act.</p> <p>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 the country. In terms of these regulations, cryptocurrency and virtual currency are not considered legal tender in South Africa and are, therefore, not recognised as a legitimate payment method or electronic money. Cross border transactions must, therefore, occur through the physical flow of funds and any such payments in the form of cryptocurrency will not be allowed under the regulations.</p> <p>Lastly, the South African Reserve Bank ('SARB') has indicated that it intends to introduce a regulatory framework to govern crypto assets/transactions in South Africa. Although this was expected to occur during the last year, the framework has not yet been implemented. Since the last publication of this report, the SARB has issued a Guidance Note to banks in relation to anti-money laundering and counter-financing terrorism controls in relation to crypto assets and crypto asset service providers which essentially points out that banks are entitled to work with crypto asset providers but are also required to include comprehensive risk-management processes and procedures in their operations.</p> |

South Africa

Direct Tax (Continued)

| Question | Response |
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| 5. What are the tax compliance/reporting requirements? | Crypto assets have been included in the definition of 'financial products' in the Financial Advisory and Intermediary Services Act 37 of 2002 (FAIS) effective from 19 October 2022. Consequently, crypto asset service providers (including exchanges, brokers, platforms, and advisors) will be required to register as registered service providers under the FAIS. Crypto asset service providers will be required to submit third party returns in accordance with section 26 of the Tax Administration Act 28 of 2011. A general exemption was also implemented which facilitated the transition in respect of the above provided the crypto asset service providers apply for a license between 1 June 2023 and 30 November 2023. Further specific exemptions were introduced on the basis that it would not make sense for crypto asset service providers to comply with all of the requirements placed on other providers of financial products (for example obtaining suitable guarantee or professional indemnity or fidelity insurance cover). |

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South Africa

Indirect Tax

| Question | Response |
|---|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent 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 position for GST / VAT / ESS or equivalent? | 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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No, it is not defined. 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. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | No specific guidance has been published to date from a VAT perspective. As mentioned, the sale of NFTs by a non-resident will likely be subject to VAT under the ESS rules but the supply of cryptocurrency in exchange therefore is exempt from VAT. |
| 5. Are there any other applicable exemptions relating to cryptoassets? | No. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No definition for this in the legislation but the guidance issued in respect of ESS refers to an ‘intermediary’ which is defined in the law 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. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | The intermediary (marketplace) 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 itself, even if made available through a marketplace. This typically happens when the supplies are directly made by the principal supplier and available through a third party platform. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No guidance has been published on this aspect as yet. The VAT treatment will depend on the circumstances and nature of the transaction and has not been clarified yet. There are specific rules relating to the VAT treatment of vouchers / tokens, however, these may not necessarily apply to these circumstances. It is recommended that these transactions be considered on their merit to determine the correct VAT treatment. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No. |

South Africa

Indirect Tax (Continued)

| Question | Response |
|--|--|
| 10. 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? | Yes – There are specific rules in connection with the reporting of operations with crypto currencies which became applicable in 2023 and will be first declared as from January 1st, 2024. |
| 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>TAX REPORTING FOR EXCHANGERS AND CUSTODIANS</p> <p>Widely speaking, the information to be provided relates to the operations (acquisition, transmission, exchange, transfer, collection and payments) and balances on virtual currencies: (i) the nominal relationship of subjects involved, with indication of their address and tax identification number, (ii) class and number of virtual currencies transmitted or held by December 31st, (iii) price and date of the operation or value of the virtual currencies held by December, 31st.</p> <p>The persons obliged to report the relevant information are:</p> <ol style="list-style-type: none"> Regarding the balance held in virtual currencies: persons and entities resident in Spain and permanent establishments in Spanish territory of persons or entities resident abroad, providing services on behalf of third parties for safeguarding 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. Regarding the operations with virtual currencies: 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 realisation of said operations, or provide services for safeguarding private cryptographic keys and to maintain, store and transfer virtual currencies (ii) those who make initial offers of new virtual currencies (called ICOs), with respect to those that they deliver in exchange of other virtual currencies or legal tender. |

Spain

Direct Tax (Continued)

| Question | Response |
|---|---|
| 5. What are the tax compliance/reporting requirements? (Continued) | <p>TAX REPORTING FOR SPANISH INVESTORS/OWNERS</p> <p>Spanish taxpayers must report on cryptocurrencies located abroad of which they are the owner, or in respect of which they have the status of beneficiary or authorised or otherwise held power of disposal, guarded by persons or entities that provide services to safeguard private cryptographic keys on behalf of third parties, to maintain, store and transfer virtual currencies.</p> <p>This obligation extends 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> <p>Among other exceptions, this obligation will be excused as long as the overall balance in cryptocurrencies does not exceed 50.000 euros.</p> |

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Indirect Tax

| Question | Response |
|--|--|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent 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 (in April 2023) the cryptoassets Regulation (so-called “MiCA”) common for all EU territories, probably in force for 2024 or 2025, by which the Spanish legislation may possibly regulate the taxation of all services related with cryptocurrencies.</p> |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <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 analyzed 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 (in the mentioned ruling and others as V3513-19 of December 20, 2019 or V2679-21, of November 5, 2021) considers that these one should be treated as subject but exempt from VAT under Article 20.One.18° of Spanish VAT Law.</p> <p>However, in relation to the safekeeping of cryptocurrencies through a platform not connected to the 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> <p>In the same line has pronounced the SGDT in the Binding tax ruling V1657-22, of July 8, 2022 for the management and advisory along the purchase and sale of cryptocurrencies, that are subject and not exempt from VAT assimilating the treatment to the discretionary investment management services.</p> <p>As further explained in question 5 below, the approach of the SGDT has not changed as from its Binding rulings as V1748-18, of June 18, 2018, V2670-18 of October 2, 2018 or V1274-20, of May 6, 2020, for the mining or mere cryptocurrency exchange services, which are expressly disregarded from VAT.</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | <p>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 rulings V486-22, of March 10, 2022 and V2274-22 of October 10, 2022, NFTs are defined as digital certificates that, through blockchain technology, are associated with a single digital file. 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, even a piece of art.</p> |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>NFTs are not considered as cryptocurrencies according to the doctrine stated by the SGDT (confirmed in the recent Binding tax ruling V1753-23, of June 15, 2023), as long as they are not configured as currencies nor fungible goods.</p> <p>In accordance with the above, the sale of a NFT in exchange for cryptocurrency, 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> <p>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.</p> |

Indirect Tax (Continued)

| Question | Response |
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| 5. Are there any other applicable exemptions relating to cryptoassets? | <p>Yes. The SGDT has analyzed some other services related with cryptocurrencies, excluded from the VAT taxation (Binding tax ruling V2679-21, of November 5, 2021).</p> <p>Firstly, as anticipated above, 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | <p>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 remote services, by electronic means, through another person (the operator of the marketplace) to a third person (the recipient).</p> |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | <p>According to the mentioned Binding tax rulings as the 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.</p> <p>Simply note here that this undisclosed role of the marketplace would be presumed in case the recipient cannot be known by the supplier of the ESS for the purposes of compliance with its tax obligations.</p> |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | <p>Not at this stage. The guidance is proposed by the SGDT.</p> <p>In Binding tax ruling V1753-23, of June 15, 2023 the SGDT considers that tokens, as digital certificates, have different nature from the underlying real-world assets. In particular: <i>“appear to be two digital assets with their own entity (...) the underlying digital file and the “non-fungible token” or NFT that would represent the digital property of the underlying asset”.</i></p> |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | <p>Not at this stage.</p> <p>According to the latest update about MiCA, De-Fi (decentralized finance) and NFTs (non-fungible tokens) are to be excluded from the European Regulation.</p> |
| 10. Are there specific rules for virtual events? | <p>Note that according to the new 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.</p> |

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Direct Tax

| Question | Response |
|---|---|
| <p>1. Is there tax authority guidance or direct tax law on cryptocurrency?</p> | <p>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 also has released some official opinions on the following subjects:</p> <ol style="list-style-type: none"> 1. Taxation of mining of bitcoin and other virtual currencies. 2. Taxation when transferring crypto-assets to a platform for lending, trading and custody. <p>The guidance and official opinions from the STA are addressed to individuals and written from a capital income perspective.</p> |
| <p>2. What is the scope of taxability?</p> | <p>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 cryptocurrencies should be treated as “other income” as well.</p> <p>The STA has issued guidance as to which events involving crypto-assets are deemed to be taxable. While the guidance specifies bitcoin, it can be assumed that the guidance applies to other types of cryptocurrencies.</p> <p>The following situations are inter alia commented by the STA:</p> <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 lendee 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 ether in Ethereum 2.0 should not be subject to tax. From April 2023, it is possible to withdraw both deposited ether and yield. The yield is subject to tax at the point of time when ether is available for withdrawal. <p>When calculating the capital gain, the average method should be used when determining the acquisition value (i.e. the acquisition cost of all the purchased bitcoins is added together, and then divided by the number of bitcoins). In case of divestment of bitcoin, the average acquisition cost is used in determining potential capital gain or loss. This means that the acquisition cost pertaining to the number of sold bitcoins will reduce the total acquisition cost and then be divided by the number of the remaining bitcoins. The average method is generally not to be used in case of non-fungible tokens (“NFTs”). 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> |

Sweden

Direct Tax (Continued)

| Question | Response |
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| 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? | <p>More detailed information and guidelines can be found on the STA's website "Rättslig vägledning".</p> |
| 5. What are the tax compliance/reporting requirements? | <p>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.</p> <p>The Council Directive (EU) 2023/2226 of 17 October 2023 amending Directive 2011/16/EU on administrative cooperation in the field of taxation ("DAC8") was adopted by the EU on 17 October 2023. DAC8 obliges crypto-asset service providers and crypto-asset operators to report EU customers' exchange transactions and transfers of crypto-assets. DAC8 is to be implemented into Swedish legislation by 31 December 2025 at the latest. The provisions of the legislation shall apply from 1 January 2026.</p> |

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Indirect Tax

| Question | Response |
|--|--|
| <p>1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency?</p> | <p>The Swedish Tax Agency published two guidelines on cryptocurrency. The guidelines are to some extent based on the ECJ case C-264/14, Hedqvist. https://www4.skatteverket.se/rattsligvagledning/372981.html?date=2018-11-29 https://www4.skatteverket.se/rattsligvagledning/338713.html?date=2015-04-24</p> |
| <p>2. If “yes”, what is the position for GST / VAT / ESS or equivalent?</p> | <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 exempt from VAT. The VAT treatment of exchange services connected to other types of cryptocurrencies are 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 has no other purpose than to be a 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. Currently, the Swedish Tax Agency considers 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 on 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 depends on 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 considers 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> |
| <p>3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent?</p> | <p>There is no definition of NFTs in the Swedish VAT Act.</p> |
| <p>4. Treatment of NFTs sold in exchange for cryptocurrency?</p> | <p>A supply of a NFT as well as a supply of the underlying asset should in general be subject to VAT</p> |
| <p>5. Are there any other applicable exemptions relating to crypto assets?</p> | <p>No specific exemptions applicable for crypto assets</p> |

Indirect Tax (Continued)

| Question | Response |
|---|--|
| <p>6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes?</p> | <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 <i>portal</i> 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> |
| <p>7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs?</p> | <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 must report Swedish VAT if it is a taxable person 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> |
| <p>8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset.</p> | <p>No such guidance.</p> |
| <p>9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance?</p> | <p>No such guidance.</p> |
| <p>10. Are there specific rules for virtual events?</p> | <p>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.</p> |

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Switzerland

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 categorisation 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 generally are 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 11.82% and 21.04%, depending on the canton and commune where the company is domiciled.</p> <p>The taxable equity (including 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 and commune where the company is domiciled.</p> <p>Individual Tax</p> <p>Private capital gains on movable assets (e.g. shares / tokens) normally are 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 received the remuneration or received an irrevocable right to the remuneration. It is irrelevant whether the remuneration results from 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 generally are not subject to Swiss withholding tax. Payments on debt tokens qualify as interest payments and are subject to 35% withholding tax. For equity and participation tokens, a case-by-case analysis has to be made (safe harbor rules available).</p> |

Switzerland

Direct Tax (Continued)

| Question | Response |
|--|---|
| 4. Are there any other relevant/noteworthy tax considerations? (Continued) | <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 generally is 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 GST / VAT / ESS or equivalent law on cryptocurrency? | Yes – in the practice published by the Swiss Federal tax authorities (VAT Info 4). |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <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 functions from the above categories.</p> <p>Moreover, the VAT treatment also depends on the supply related to the crypto itself. For example:</p> <ul style="list-style-type: none"> • Sale and acquisition of token : PT: Not relevant from a VAT perspective UT :taxable at the place of recipient ST: depends on the underlying asset • Trading fees: PT: exempt without credit UT: taxable at the place of recipient ST: depends on the underlying asset |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | <p>No definition.</p> <p>It is not defined as to whether NFT will be treated as ESS.</p> |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | <p>If sold against PT: it will be considered as a taxable transaction.</p> <p>If sold against UT or ST: it will be considered as a barter transaction. The VAT implication on the cryptocurrency leg (as payment) will have to be analysed in each specific case.</p> |
| 5. Are there any other applicable exemptions relating to cryptoassets? | 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No definition. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Not clear, but assuming that the marketplace appears as the provider vis-à-vis the third party (buyer), the marketplace likely may have to account for VAT. |

Switzerland

Indirect Tax (Continued)

| Question | Response |
|---|---|
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No other rule than potentially the rules applicable for security (asset backed) token. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No |
| 10. Are there specific rules for virtual events? | No. However, unless this concerns learning and teaching, this probably would be considered as a supply of services taxable at the place of the recipient. |

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Taiwan

Direct Tax

| Question | Response |
|--|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>There is no guidance or income tax laws on cryptocurrency except for the security tokens issued under the specific rule issued by the Financial Supervisory Committee (“FSC”) and the Taiwan Securities Exchange. Nevertheless, in 2022, after the bankruptcy announcement of FTX, the Ministry of Finance (MoF) issued a press release to address the deductibility of losses on cryptocurrency investments for investors. The press release states that, for profit-seeking enterprise investors, income/loss from the exchange of cryptocurrency to fiat or exchange between cryptocurrencies is deemed as income/loss from property transactions and would be subject to income tax under Article 24 of the Income Tax Act; for individual investors, it also is treated as income/loss from property transactions if the transactions are not regularly conducted for a trading purpose. The press release identifies only the type of income derived from the exchange of cryptocurrencies and provides general rules on calculating the income/loss from property transactions, but no further details are provided.</p> <p>In 2019, FSC and Taiwan Securities Exchange released regulations for security tokens (“ST Rules”). Tokens issued in Taiwan in accordance with the ST Rules are viewed as “securities”. The trade of such a security token is subject to securities transaction tax (“STT”) but the capital gain is exempt from income tax.</p> |
| 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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Taiwan

Indirect Tax

| Question | Response |
|---|---|
| <p>1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency?</p> | <p>Although the Ministry of Finance (MoF) issued a press release stating that the income/loss from the exchange of cryptocurrency to fiat or exchange between cryptocurrencies is deemed as income/loss from property transactions from a direct tax perspective, there is no guidance or GST/VAT laws on how the cryptocurrency trades/exchanges should be taxed other than security tokens issued under the specific rules issued by Financial Supervisory Committee (“FSC”) and Taiwan Securities Exchange.</p> <p>In 2019, the FSC and Taiwan Securities Exchange released regulations for security tokens (“ST Rules”). Tokens issued in Taiwan in accordance with the ST Rules are viewed as “securities”. The trade of such a security token is not subject to GST/VAT but is subject to security transaction tax (“STT”).</p> |
| <p>2. If “yes”, what is the position for GST / VAT / ESS or equivalent?</p> | No guidance |
| <p>3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent?</p> | No guidance |
| <p>4. Treatment of NFTs sold in exchange for cryptocurrency?</p> | No guidance |
| <p>5. Are there any other applicable exemptions relating to crypto assets?</p> | No guidance |
| <p>6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes?</p> | No guidance |
| <p>7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs?</p> | No guidance |
| <p>8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset.</p> | No guidance |
| <p>9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance?</p> | No guidance |

Taiwan

Indirect Tax (Continued)

| Question | Response |
|--|-------------|
| 10. Are there specific rules for virtual events? | No guidance |

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Direct Tax

| Question | Response |
|---|--|
| <p>1. Is there tax authority guidance or direct tax law on cryptocurrency?</p> | <p>Yes – In 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 recipient of income). 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 issued ministerial regulation to govern capital losses from cryptocurrency and digital tokens for personal income tax purposes.</p> |
| <p>2. What is the scope of taxability?</p> | <p>In 2018, Thailand 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 of being used as a medium of exchange for goods, services, any other rights, or to trade other digital assets. The definition also includes 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 remains quite broad.</p> <p>Additionally, in 2023, Thailand enacted a new Royal Decree issued under the Revenue Code to exempt income tax for the transfer of investment tokens, and within provided the definition of investment token to mean a digital token with the objective of specifying the right of a person in making joint investment in a project or any business under the law governing digital asset business.</p> |
| <p>3. What are the direct tax implications?</p> | <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.</p> <p>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, no legislative or regulatory updates have codified this.</p> <p>In 2023, Thailand enacted a new Royal Decree Issued under Revenue Code into force with retroactive effect which exempts income tax arising on the transfer of Investment tokens from 14th May 2018 onwards. Income or value on the transfer of investment tokens issued outside the parameters of the law governing digital asset businesses would not qualify for the exemption.</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: In 2018, the Revenue Code was amended to 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 must 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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Indirect Tax

| Question | Response |
|--|---|
| <p>1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency?</p> | <p>Yes – On May 24, 2022, two 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> <p>Additionally, on August 23, 2023, Thailand enacted a new Royal Decree Issued under Revenue Code into force with retroactive effect which exempts Valued Added Tax arising on the transfer of Investment tokens from 14th May 2018 onwards.</p> |
| <p>2. If “yes”, what is the position for GST / VAT / ESS or equivalent?</p> | <p>Relying solely on the definitions of cryptocurrency and digital tokens from the Royal Decree on Digital Asset Businesses, cryptocurrencies and digital tokens 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 Royal Decrees in 2022 provides an exemption for the transfer of cryptocurrencies and digital tokens; however, specifically limits the exemption 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 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> <p>The new Royal Decree enacted in 2023 further provides an exemption to the transfer of investment tokens, which relies on the definition of investment token, that would be limited to investment tokens only offered to the public under the law governing digital asset business. Transfers of investment tokens that are issued outside the parameters of this law would not qualify for the exemption.</p> |
| <p>3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent?</p> | <p>No</p> |
| <p>4. Treatment of NFTs sold in exchange for cryptocurrency?</p> | <p>Generally, yes as the supply of a NFT would similarly be considered the supply of an “intangible personal property” for VAT purposes. However, if the transfer of NFTs is 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 goods as well should be properly assessed as the underlying service or goods supplied would not qualify for VAT exemption.</p> |
| <p>5. Are there any other applicable exemptions relating to crypto assets?</p> | <p>No</p> |

Thailand

Indirect Tax (Continued)

| Question | Response |
|---|--|
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | No |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent 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 came 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, 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> |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No. |
| 10. 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 cryptoassets and/or VAT treatment on sale of such assets. |
| 2. What is the scope of taxability? | <p>While no formal legislation is in place yet, this is an area of attention for the Ministry and it is expected that more formal legislation will follow, including defining digital assets for tax purposes and providing guidance on the scope of taxability. It is expected that such assets will likely be defined 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? | No guidance yet. |
| 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 GST / VAT / ESS or equivalent 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 20% VAT). It is expected that the Ministry is to propose a specific VAT exemption to be brought into the VAT law. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | N/A |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | Not yet. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Yes, standard rated at 20% (domestic transactions). |
| 5. Are there any other applicable exemptions relating to crypto assets? | Not yet. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Not yet. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent 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 charge VAT obligation yet.) |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Such guidance has not yet been created or published. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Such guidance has not yet been created or published. |
| 10. Are there specific rules for virtual events? | Not yet. |

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United Arab Emirates

Direct Tax

| Question | Response |
|--|--|
| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>On 9 December 2022, the Ministry of Finance of the United Arab Emirates (“UAE”) announced the introduction of a federal corporate tax, effective for the financial years commencing on or after 1 June 2023.</p> <p>There are no specific provisions in the UAE corporate tax law in respect of cryptocurrency and businesses engaged in trading cryptocurrency indicating that they may be subject to UAE corporate tax.</p> |
| 2. What is the scope of taxability? | <p>The UAE corporate tax regime starts with Accounting Income (i.e. accounting net profit or loss in accordance with IFRS). The corporate tax law then makes certain adjustments to accounting income in order to compute taxable income, but none of these adjustments relate specifically to cryptocurrency.</p> |
| 3. What are the direct tax implications? | <p>Any taxable income in excess of AED375,000 is subject to tax at 9%. A qualifying free zone person may qualify for a 0% tax rate on qualifying income as defined.</p> |
| 4. Are there any other relevant/noteworthy tax considerations? | <p>Not applicable.</p> |
| 5. What are the tax compliance/reporting requirements? | <p>Filing an annual Income tax return and making the required payment of any corporate tax due within nine months after the end of the relevant financial year.</p> |

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United Arab Emirates

Indirect Tax

| Question | Response |
|---|---|
| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent 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 position for GST / VAT / ESS or equivalent? | Not applicable. |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | No guidance has been published to date. |
| 5. Are there any other applicable exemptions relating to crypto assets? | Not applicable. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent 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: a. Allows suppliers to make supplies of electronic services to customers. b. Supplies made by the marketplace must be made by electronic means. (Executive Regulations to the VAT Law) |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | No guidance has been published to date. |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No guidance has been published to date. |

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United Arab Emirates

Indirect Tax

| Question | Response |
|--|--|
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No guidance has been published to date. |
| 10. 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 |
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| 1. Is there tax authority guidance or direct tax law on cryptocurrency? | <p>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 cryptoassets. The CM is not legally binding on taxpayers, but does indicate the position likely to be taken by HMRC concerning crypto assets.</p> <p>In 2022 the CM was extended to provide guidance on decentralised finance (DeFi) transactions.</p> <p>The UK government recently concluded a formal consultation with the public on tax treatment of DeFi transactions. The intention is that the taxation of lending or staking of crypto assets should broadly follow the tax regime for repo and stock lending transactions. In addition, the government intends to introduce rules to provide that all returns from crypto asset lending and staking transactions are to be treated as revenue returns to be taxed as miscellaneous income. These changes have not yet been promulgated.</p> |
| 2. What is the scope of taxability? | <p>In general, any profit or gain arising from a token would be expected to be taxable. The exact taxing provision would depend 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. While crypto assets are, legally, intangible assets, they generally do not fall in the intangible asset tax regime for companies because they are not for "enduring use" within a business. Therefore, they usually are chargeable assets (i.e., subject to the capital gains tax regime) for companies and individuals.</p> |
| 3. What are the direct tax implications? | <p>Income from trading crypto assets are taxed as profits of a company or a business 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 be considered trading transactions only 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 are not treated as trading unless they are a systematic activity done with the 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.</p> <p>In HMRC's 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 crypto assets, 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.</p> <p>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.</p> <p>Where crypto assets are held via a partnership, the normal rules apply by which the activities of the partnership are taxed on the partners.</p> <p>The guidance on DeFi transactions provides 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, crystallising capital gains 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 re-acquires them). Further consultation is taking place on this topic, and HMRC is considering whether the rules should be aligned with rules for analogous stock transactions such as repos and stock lending, where no taxable disposal occurs.</p> |

United Kingdom

Direct Tax (Continued)

| Question | Response |
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| 4. Are there any other relevant/noteworthy tax considerations? | HMRC continues to look very closely at crypto transactions. We have seen a growing number of tax audits. In addition, HMRC is sending letters to taxpayers who are believed to hold crypto, encouraging them to disclose all taxable gains relating to their crypto holdings or 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 |
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| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | <p>HMRC has limited public guidance on cryptocurrency (https://www.gov.uk/hmrc-internal-manuals/cryptoassets-manual/crypto45000):</p> <ul style="list-style-type: none"> • VAT is due in the normal way on any goods or services sold in exchange for crypto asset exchange tokens. • Exchange tokens received by miners for their exchange token mining activities generally will be outside the scope of VAT on the basis that: <ul style="list-style-type: none"> ○ the activity does not constitute an economic activity for VAT purposes because there is an insufficient link between any services provided and any consideration; and ○ there is no customer for the mining service. • Charges (in whatever form) made over and above the value of the exchange tokens for arranging any transactions in exchange tokens, will be exempt from VAT. • The financial services supplied by bitcoin exchanges - exchanging bitcoin for legal tender and vice versa - are exempt from VAT. <p>In respect of all other tokens (securities, utility and NFTs) there is no public guidance on the UK VAT or ESS implications.</p> |
| 3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | No public guidance from HMRC is available on the VAT treatment of NFTs. |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Based on our understanding of how the industry is currently dealing with VAT, we consider that where an NFT is supplied in return for consideration or given away, it will be considered a taxable supply. Based on the characteristics of a NFT, it most likely is to be taxed as an Electronically Supplied Service (“ESS”), the rules which apply to the digital supply of non-tangible Goods (i.e., services). The VAT applicable will depend on whether the transaction is conducted on a B2B or B2C basis. |
| 5. Are there any other applicable exemptions relating to crypto assets? | In relation to transactions in cryptocurrency, there are exemptions available for acting as an intermediary in relation to the buying and selling. |
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | <p>There is no definition in relation to the online sale of services. However, HMRC’s definition of an online marketplace is a business using a website or mobile phone app (such as a marketplace, platform or portal) to handle the sale of goods to customers which meets all of the following conditions:</p> <ul style="list-style-type: none"> • in any way sets the terms and conditions on how goods are supplied to the customer • is involved in any way in authorising or facilitating customers’ payments • is involved in the ordering or delivery of the goods. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | This depends on the role taken by the online marketplace in the sale of the NFTs. Where the marketplace acts as a principal in the sale (i.e. seller), it will bear the responsibility to account for any VAT due. Where it acts only as an agent, the seller will retain responsibility. |

United Kingdom

Indirect Tax (Continued)

| Question | Response |
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| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | No public guidance from HMRC is available. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | No public guidance from HMRC is available. |
| 10. Are there specific rules for virtual events? | No public guidance from HMRC is available. |

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United States

Direct Tax

| Question | Response |
|---|---|
| <p>1. Is there tax authority guidance or direct tax law on cryptocurrency?</p> | <p>Yes. There is limited guidance of the treatment of cryptocurrency:</p> <ul style="list-style-type: none"> • Notice 2014-21, as modified by Notice 2023-34, providing limited guidance on certain convertible virtual currencies; • Infrastructure Investment and Jobs Act of 2021 addressing digital asset information reporting for brokers; • Proposed Regulations on digital asset reporting released August 25, 2023; • Rev. Rul. 2023-14 addressing inclusion of staking rewards in income for cash-method taxpayers; • Notice 2023-27 providing that NFTs should be treated as collectibles; • 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. |
| <p>2. What is the scope of taxability?</p> | <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> <p>The Proposed Regulations released in 2023 clarify items such as, what digital assets subject to reporting, who qualifies as a broker, how to calculate basis in a digital asset, and the treatment of digital assets as a separate third category of assets distinct from securities and commodities. Such regulations are not final yet.</p> |
| <p>3. What are the direct tax implications?</p> | <p>There are a number of relevant direct tax considerations, highlighted 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>4. Are there any other relevant/noteworthy tax considerations?</p> | <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, Private Equity, and withholding obligations when transacting cross-border.</p> |
| <p>5. What are the tax compliance/reporting requirements?</p> | <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: In general, taxpayers are required to follow the reporting requirements for assets of similar classes with respect to cryptocurrency transactions.</p> <p>However, pursuant to the 2023 Proposed Regulations, brokers would be required to report on digital asset sales, the definition of which has been expanded to cover a wider scope of property.</p> |

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United States

Indirect Tax

| Question | Response |
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| 1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency? | Yes, various US states have provided sales and use tax guidance. |
| 2. If “yes”, what is the position for GST / VAT / ESS or equivalent? | 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. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent? | <p>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.</p> <p>The states that have defined NFTs may tax them 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). Most other states have not issued guidance, and as such, NFTs may not (yet) be subject to tax.</p> |
| 4. Treatment of NFTs sold in exchange for cryptocurrency? | Please see above for how states may treat the sale of NFTs in exchange for cryptocurrency. |
| 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. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent 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. However, California recently adopted regulations that provide that payment processing is not a requirement to be considered a marketplace facilitator. |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent 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. |

United States

Indirect Tax (Continued)

| Question | Response |
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| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | In general, whether the token has a different character / nature from the underlying real-world asset will depend on the rights transferred with the token. |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent 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. |
| 10. 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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Direct Tax

| Question | Response |
|---|---|
| <p>1. Is there tax authority guidance or direct tax law on cryptocurrency?</p> | <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 Minister 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 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 organisations 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>The Government issued Decision 942 dated 15 June 2021 which stipulates the strategy on development of the e-government toward digital government for the period from 2021-2025. The decision proposes 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 developments on this topic in the near future.</p> <p>Decision 2146, dated 12 November 2021, proposes that the Ministry of Finance would cooperate with the Ministry of Justice and the State Bank of Vietnam to build a legal framework to control virtual currency in accordance with the 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.</p> <p>The developing a legal framework for managing crypto currencies has been emphasised under the Resolution No. 01/NQ-CP dated 6 January 2023 by the Government, which stipulates the national plans on economy, society, and State budget to enhance the business environment for the period 2021-2030. However, no official guidance has been issued until now.</p> |
| <p>2. What is the scope of taxability?</p> | <p>Not applicable</p> |
| <p>3. What are the direct tax implications?</p> | <p>Not applicable</p> |
| <p>4. Are there any other relevant/noteworthy tax considerations?</p> | <p>Not applicable</p> |
| <p>5. What are the tax compliance/reporting requirements?</p> | <p>Not applicable</p> |

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Indirect Tax

| Question | Response |
|--|--|
| <p>1. Is there tax authority guidance or GST / VAT / ESS or equivalent law on cryptocurrency?</p> | <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 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 organisations 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>The Government issued Decision 942 dated 15 June 2021 which stipulates the strategy on development of the e-government toward digital government for the period from 2021-2025. The decision proposes 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 developments on this topic in the near future.</p> <p>Decision 2146, dated 12 November 2021, proposes that the Ministry of Finance would cooperate with the Ministry of Justice and the State Bank of Vietnam to build a legal framework to control virtual currency in accordance with the 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.</p> <p>The developing a legal framework for managing crypto currencies has been emphasised under the Resolution No. 01/NQ-CP dated 6 January 2023 by the Government, which stipulates the national plans on economy, society, and State budget to enhance the business environment for the period 2021-2030.</p> <p>However, no official guidance has been issued until now.</p> |
| <p>2. If "yes", what is the position for GST / VAT / ESS or equivalent?</p> | <p>Not applicable</p> |
| <p>3. Are NFTs defined and/or subject to GST / VAT / ESS or equivalent?</p> | <p>Not applicable</p> |
| <p>4. Treatment of NFTs sold in exchange for cryptocurrency?</p> | <p>Not applicable</p> |
| <p>5. Are there any other applicable exemptions relating to crypto assets?</p> | <p>Not applicable</p> |

Vietnam

Indirect Tax (Continued)

| Question | Response |
|---|----------------|
| 6. Is there a definition of marketplace for GST / VAT / ESS / remote services or equivalent purposes? | Not applicable |
| 7. If a marketplace is involved, who has the obligation to account for GST / VAT / ESS or equivalent on the sale of NFTs? | Not applicable |
| 8. Is there any specific guidance in GST / VAT / ESS or equivalent rules on tokenisation of real-world assets? Please also state whether the token has a different character / nature from the underlying real-world asset. | Not applicable |
| 9. Are there any specific De-Fi GST / VAT / ESS or equivalent rules or tax authority guidance? | Not applicable |
| 10. Are there specific rules for virtual events? | Not applicable |

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