



Blockchain Tax Guidelines

The Blockchain Island, a.k.a. Malta, has enabled a regulatory platform for distributed ledger technologies (DLT) with the objective of providing investors and users with some form of stability. On 1st November 2018, Malta buttressed this platform with three sets of fiscal guidelines, bringing clarifications and with them certainty, as to the tax implications of using Malta as a DLT base. Below, we summarise the salient features of the income tax, duty and value added tax (VAT) treatment of DLT Assets in Malta.



Tax Classification

Rather than adding another tax layer, Malta's Revenue applies Malta's general tax system, as specifically approved by the EU Commission, to DLT income and transactions. For tax purposes, Malta broadly classifies DLT Assets either as coins or as tokens. Under the guidelines, coins are cryptocurrencies designed to be used solely as a means of payment, a medium of exchange or to function as a store of value. Functionally, they constitute the cryptographic equivalent of fiat currencies but are not legal tender. Tokens are further classified into two subcategories, namely financial tokens or utility tokens. The former relate to DLT assets, at times also known as security, asset or asset backed token, which exhibit qualities similar to equities, debentures, units in collective investment schemes, or derivatives and including Financial Instruments. Utility tokens refer to virtual tokens whose usefulness, value or application is restricted solely to the acquisition of goods or services either solely within a DLT platform or within a limited network of DLT platforms. A token created by a DLT platform for usage and access to software features on that platform would qualify as a utility token.



How and when are coins and tokens taxed in Malta?

Coins

The tax treatment of transactions involving coins would be identical to the tax treatment of transactions involving fiat or conventional currency. As such, coins fall outside the scope of income tax and duty, and gains on isolated transfers will not be taxed in Malta. Conversely, where the Coins are transferred as part of a coin exchange business or trade, profits realised from such business would be taxed at the standard Maltese corporate income tax rate of 35%. By the application of structuring options which are available under the Maltese full imputation system, the effective tax rate on such trading income could be reduced to between 5% and nil.

The exchange of coins for other cryptocurrencies or for fiat money where such exchange constitutes a supply of services for consideration will not be liable to VAT. Mining would also fall outside of scope of VAT, unless it is carried out against payment of transaction fees.

Financial Tokens

A return on financial tokens such as payments equivalent to dividends, interest, premiums is treated as income and taxed in the hands of the holder at the applicable rates (progressive capped at 35% where the holder is an individual and standard 35% where the holder is a company) subject to available exemptions.

Where the financial token meets the definition of security, essentially, having profit-participating rights, gains derived upon a transfer of such tokens fall within taxable capital gains, to which a number of exemptions apply. Where gains are derived in the nature of trade, such as where the transfer is part of a profit-making undertaking or scheme, they will be treated as trading income and subject to tax at 35% which may be mitigated as aforementioned when dividends are distributed through the application of the Maltese full imputation system.

The transfer of a financial token will generally be liable to stamp duty only where it meets the definition of a security at law, and then also subject to available exemptions.

The VAT treatment of transactions in financial tokens depends on the return to which they are entitled. If they qualify as securities, relevant exemptions apply.





Utility tokens



While non-business transfers will not be subject to income tax or duty, profits arising from a trade or business in utility tokens will be treated as trading income and subject to tax at 35%, with the possibility of benefitting from the full imputation system as indicated above. Furthermore, transfers of convertible utility tokens not being financial tokens at the time of issue will be treated as non-taxable until such time as they are converted into financial tokens.

From a VAT perspective, transactions in utility tokens would be treated as transactions in vouchers and the issuer will be required to account for VAT on the utility tokens based on its context.

Initial Coin Offerings (ICOs) or Token Generation Events



The issue or generation of financial tokens will not attract tax and VAT implications in Malta. However, payment for the issue of utility tokens is likely to constitute income derived by the issuer, which ought to be taxed when realised.

Generally where the good or service for which the utility token is issued and the corresponding price cannot be clearly identified, no VAT implications arise.

Exchanges



Income derived by crypto exchanges is considered to be trading income and treated as such.

Where the provision of exchange facilities is against a fee, the supply would be VATable unless the DLT asset traded is classified as a currency or security under VAT law.

Contact us:

John Ellul Sullivan

Partner,

Tax Services

+356 2563 1154

johnellulsullivan@kpmg.com.mt

Lisa Zarb Mizzi

Partner,

Tax Services

+356 2563 1082

lisazarbmizzi@kpmg.com.mt

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities)

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2019 KPMG, a Maltese civil partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International Cooperative (KPMG International).