



September 2018

The planned tax regulations concerning cryptocurrency

On 24 August 2018 the Ministry of Finance published the project of the bill amending the Personal Income Tax Act, the Corporate Income Tax Act, the Tax Ordinance Act and several other regulations (hereinafter: “the Project”).

Currently, the provisions of the Corporate Income Tax Act (hereinafter: “CIT”) and the Personal Income Tax Act (hereinafter: “PIT”) do not contain specific regulations concerning tax implications of the cryptocurrency trading.

In view of the above, currently taxpayers fulfill their income tax obligations based on general rules, supported by guidelines and rulings of the tax authorities, administrative courts as well as the tax law doctrine.

However, the above-mentioned rules and guidelines are often unsuitable to the characteristics of the cryptocurrency trading. Therefore, in practice there are numerous doubts concerning the appropriate tax settlement of such transactions.

The regulations proposed by the Ministry of Finance are intended to regulate the taxation of income derived from the cryptocurrency trade in a comprehensive way.

Change of income source in PIT and CIT

According to the standpoint presented by the tax authorities and administrative courts, to date the income from cryptocurrency trading for PIT purposes has been treated as income from property rights.

According to the Project, for PIT purposes the revenue derived from the cryptocurrency trade shall be included in the capital gains basket, even if a taxpayer obtains the revenue within the business activity. It is a significant change, since the current qualification of revenues from cryptocurrency trading results in taxation of the income according to the progressive rates (up to 32 percent). The described amendment will introduce taxation based on a flat tax rate of 19 percent.

For the CIT purposes the income from the cryptocurrency trade shall be included in capital gains, too.

Both on PIT and CIT grounds, the revenue from the cryptocurrency trade shall not be summed up with other revenues achieved within the particular source.

As a consequence, taxpayers would not be able to compensate loss on the cryptocurrency trade with

other income achieved within the same source, nor compensate loss on other operations with income on the cryptocurrency trade.

Income from the disposal of cryptocurrencies will be calculated as the difference between the sum of revenues from the sale achieved during a tax year and the tax deductible costs (recognized in accordance with the principles indicated in the Project).

The tax obligation

Revenues from the cryptocurrency trade shall include amounts derived from the exchange of cryptocurrency for real money, i.e. from the sale on the market or on an exchange.

Moreover, also payment with a cryptocurrency for goods, services or other property rights shall be considered as the sale thereof. In these situations the amount of revenue shall be equal to the price of purchased goods, services or property rights.

Tax neutrality of the exchange for other cryptocurrency

Currently, some of the tax authorities and administrative courts present a standpoint that

cryptocurrency exchange for other cryptocurrency is subject to taxation. Based on the Project, such transactions are going to be tax neutral, regardless of the exchange method (on the market, in an exchange office or within an individual exchange).

Tax deductible costs

The Project provides specific rules of tax deductible costs settlement in connection with the cryptocurrency trading. As tax deductible costs shall be considered documented expenses related solely to the purchase or sale of cryptocurrencies.

The tax costs shall be deductible in the settlement for the tax year in which they were incurred (even if in the particular year a taxpayer does not receive any revenue from cryptocurrency sale).

The potential excess of tax deductible costs over revenues achieved in a particular tax year shall increase the tax deductible costs in the subsequent tax year.

The interim provisions

The Project is intended to come into force on 1 January 2019. However, the costs of cryptocurrency purchase incurred and not settled before

1 January 2019 may be reported by taxpayers in the first tax return submitted after 1 January 2019 (so as a rule – in the tax return for 2018).

It should be noted that the Project will be subject to public consultations and further legislation process and thus the final provisions of the amendment act could differ from the Project in its current wording.

Please contact us if you would like to obtain more information on the described regulation or discuss its potential impact for you or your firm.

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.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

© 2018 KPMG Tax M.Michna sp.k., a Polish limited 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.

Contact

Rafał Ciołek

Partner

Tel. : +48 22 528 11 97

rciolek@kpmg.pl

Mateusz Kobylński

Partner

Tel. : +48 22 528 11 91

mkobylinski@kpmg.pl

Andrzej Marczak

Partner

Tel. : +48 22 528 11 76

amarczak@kpmg.pl

Anna Sińczuk

Partner

Tel. : +48 22 528 11 92

asinczuk@kpmg.pl

Przemysław Szywacz

Director

Tel. : +48 22 528 10 03

pszywacz@kpmg.pl

Wojciech Majkowski

Senior Manager

Tel. : +48 22 528 16 80

wmajkowski@kpmg.pl

KPMG Offices

Warszawa

ul. Inflancka 4a

00-189 Warszawa

Tel. : +48 22 528 11 00

Fax: +48 22 528 10 09

kpmg@kpmg.pl

Kraków

ul. Opolska 114

31-323 Kraków

Tel. : +48 12 424 94 00

Fax: +48 12 424 94 01

krakow@kpmg.pl

Poznań

ul. Roosevelta 22

60-829 Poznań

Tel. : +48 61 845 46 00

Fax: +48 61 845 46 01

poznan@kpmg.pl

Wrocław

ul. Szczytnicka 11

50-382 Wrocław

Tel. : +48 71 370 49 00

Fax: +48 71 370 49 01

wroclaw@kpmg.pl

Gdańsk

al. Zwycięstwa 13a

80-219 Gdańsk

Tel. : +48 58 772 95 00

Fax: +48 58 772 95 01

gdansk@kpmg.pl

Katowice

ul. Francuska 36

40-028 Katowice

Tel. : +48 32 778 88 00

Fax: +48 32 778 88 10

katowice@kpmg.pl

Łódź

ul. Składowa 35

90-127 Łódź

Tel. : +48 42 232 77 00

Fax: +48 42 232 77 01

lodz@kpmg.pl



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.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

© 2018 KPMG Tax M.Michna sp.k., a Polish limited 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.