

The VAT treatment of cryptocurrencies

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Talk IoT

Although no VAT will be levied on any cryptocurrency, the income tax treatment of cryptocurrencies must be considered separately.

New draft tax legislation was released by National Treasury on 16 July 2018 for comment. A number of amendments have been proposed, including the value-added tax (VAT) treatment of cryptocurrencies.

Following the media release issued by the South African Revenue Service (SARS) on the tax treatment of cryptocurrencies, it is now proposed that for VAT purposes a cryptocurrency will be treated as an exempt financial service for the purposes of the Value-added Tax (VAT) Act. This is aligned with other jurisdictions, such as the European Union, where transactions using cryptocurrencies are exempt despite the transaction being classified as the rendering of a service.

The implication of the proposed amendment is that no VAT will be levied on the issue, acquisition, collection, buying, selling or transfer of ownership of any cryptocurrency.

VAT is currently levied at the standard rate of 15% on the supply of goods and services by registered vendors, but there is a limited range of goods or services that are either exempt or that are subject to tax at the zero rate.

Exempt supplies are supplies of goods or services where no VAT is levied and input tax may not be deducted on the VAT incurred to make exempt supplies. A business that only makes exempt supplies does not carry on as an “enterprise” for VAT purposes and is therefore unable to register as a vendor irrespective of the number or value of the supplies made. Other examples of exempt financial services include the provision of credit, life insurance, and the services of benefit funds such as medical schemes, provident, pension and retirement annuity funds.

For the consumer, the proposal means that the consumer will not have to charge or collect any VAT when undertaking any transaction in respect of any cryptocurrency. The benefit of this is that there will not be any additional VAT charge, which would increase the costs associated with transacting with cryptocurrencies.

Although no VAT will be levied on any cryptocurrency, the income tax treatment of cryptocurrencies must be considered separately.

SARS stated in its media statement issued in April 2018 that SARS deems a cryptocurrency as assets of an intangible nature. According to SARS, they will continue to apply normal income tax rules to cryptocurrencies and will expect affected taxpayers to declare cryptocurrency gains or losses as part of their taxable income.

The onus is on taxpayers to declare all cryptocurrency-related taxable income in the tax year in which it is received or accrued. Failure to do so could result in interest and penalties.

Although governments are trying to regulate cryptocurrencies, one of the practical difficulties that may be encountered is how SARS will monitor the use of cryptocurrencies and the respective transactions. It will be useful to consider how other jurisdictions have monitored the use of cryptocurrencies. In certain foreign jurisdictions, the online platforms on which cryptocurrencies are traded are monitored and information can be collected accordingly.

The outcome of the newly proposed legislation is that there is some clarity regarding the tax and VAT treatment of cryptocurrencies. However, with the complexity of transacting using cryptocurrencies, it can be expected that there will be further amendments and proposals.

It is likely that comments will be made in respect of the proposed changes and these comments are due by no later than 16 August 2018. Once comments are received, there may be hearings relating to the comments which can potentially result in amendments to the draft legislation which is then published. The draft legislation and any amendments, if applicable, will only be enacted into law at a later date.

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