

Malaysia

Malaysia Issues Guidelines for Tax Treatment of Digital Currency Transactions

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The Inland Revenue Board (IRB) has recently issued guidelines on the tax treatment of digital currency transactions (the guidelines) that provide guidance on, among others, the general tax treatment of acquisitions and disposals of digital currencies. The guidelines also provide guidance on tax treatment for specific transactions involving digital currencies such as the use of digital currencies in business and investment in digital currencies.

The salient features of the guidelines are set out below.

- Digital currency transactions in Malaysia are subject to tax under section 3 of the Income Tax Act 1967 where income of any person accruing in or derived from Malaysia or received in Malaysia from outside Malaysia is taxable.
- The IRB considers transactions involving digital currency would be subject to tax if the key activities and business operations are performed in Malaysia or if the business has presence in Malaysia.
- A person who actively trades digital currencies may be viewed as generating revenue from the activity which is taxable. On the other hand, gains derived by an individual who trades occasionally may be viewed as capital gains that are not subject to tax.
- The IRB will apply the badges of trade (in Appendix A of the guidelines) to determine whether the gain from a digital currency transaction is a capital or revenue gain.

Use of digital currencies in business

- Profits derived from the trading of digital currencies in the ordinary course of business are taxable similar to the trading of stock. Any expenses incurred in the production of taxable income or losses incurred from the trading activity would be tax deductible.
- Profits derived from mining of digital currencies with a profit-seeking motive are taxable. Expenses relating to the business are tax deductible and losses will be allowed.
- A business that accepts digital currency as a mode of payment should consider the digital currencies received as payment for goods or services provided, as sales to the business based on the open market value of the goods or services in Malaysian Ringgit (MYR).
- Salary and wages paid using digital currency is deductible to the employer and taxable in the hands of the employee based on the value of the services performed in the employment contract.

Investment in digital currencies

- Investments in digital currencies and digital tokens are considered as a business activity of that person if the investments activities are continuous, systematic, active, carry a financial risk and aim at making a profit. The taxability of a profit from the investment depends on whether the gain is capital or revenue in nature.
- The purchase of digital currencies such as Bitcoin and Ether, merely as part or full payments of any goods or services will not give rise to taxation.
- Digital currencies received for free as a marketing tool or the splitting of existing digital currency are not taxable at the time of receipt. However, the gains from the future disposal of the digital currencies may be taxable if the gains are revenue in nature.

Acquisition cost of digital currency

- The acquisition cost of digital currencies must be in MYR and is determined using the First In, First Out principle, unless the taxpayer is able to prove otherwise.
- The fair value of the digital currency received with no published value is equal to the fair value of the property or services exchanged for the digital currency when the transaction occurs.
- Records that need to be kept in relation to digital currency include the records to determine the nature of transaction, date of transaction and exchange records.
- Examples are provided in the guidelines.

For the purpose of the guidelines, digital currencies and digital token refers to digital financial assets that are based on distributed ledger technology and cryptographically secured digital representations of value or contractual rights that can be electronically transferred, stored or traded.

The full details of the guidelines are available [here](#) .

See also

[Malaysia - Corporate Taxation - Country Surveys sections 1.3.1., 1.3.3., 1.5.](#)

[Malaysia - Country Analyses - Corporate Taxation sections 1.2.1., 1.4.1., 1.8., 12.8.](#)