

# PIT treatment of income from cryptocurrency: new SRS opinion (2/21/18)

In a publicly available article of 12 January 2018 we set out our thoughts and the SRS's opinion about how personal income tax (PIT) should be applied to income from cryptocurrency. At that time the SRS believed that income from cryptocurrency is other income (without deduction of expenses) that attracts the standard rate of PIT, i.e. the progressive rate in 2018. The SRS has now changed their mind.

It is now a capital gain

On 19 April and 7 May 2018 the State Revenue Service in collaboration with the Ministry of Finance (MOF) published their new opinion on the PIT treatment of cryptocurrency transactions conducted by individuals: Income from trading in cryptocurrency is a capital gain. Accordingly, the gain attracts PIT at a fixed rate of 20% in 2018.

Below we list situations in which taxpayers applied to the SRS for advice, and summarise their opinion of 7 May (this includes their opinion of 19 April):

Situation	Question	SRS/MOF reply
<p>1) Cryptocurrency is traded online.</p> <p>2) The cryptocurrency is exchanged online into euros, and a euro payment is received into a bank account.</p>	<p>1) What taxes and amounts should the individual pay when trading in cryptocurrency?</p> <p>2) Is the individual required to file the annual income tax return? What information should it disclose?</p>	<p>1) Any income the individual receives from the cryptocurrency disposal is essentially income from capital gains.</p> <p>2) Capital gains are calculated as revenue less expense and attract a fixed PIT rate of 20% in 2018.</p> <p>3) Gains and losses arising on cryptocurrency transactions should be counted within the tax year to measure the total capital gain; any loss reduces the gain arising on the disposal of cryptocurrency or other capital assets.</p> <p>4) This income should be disclosed on the capital gains tax return DK (not the annual income tax return) quarterly or annually depending on whether it exceeds a threshold of €1,000.</p>

<p>An individual lends cryptocurrency to their company with repayment in euros.</p>	<p>What is the PIT treatment of this income? Is the individual required to disclose the loan on the annual income tax return?</p>	<p>The loan does not need reporting to the SRS. We think, however, the contract should specify the cryptocurrency value at the time of lending to ensure the amount repayable does not change with that value. It should also be assessed whether the transaction is in fact a loan or a sale. The SRS thinks it's a sale, and so the individual should calculate the gain and pay PIT on it through the capital gains tax return DK.</p>
<p>An individual sells cryptocurrency to a company below the market price. The company converts the cryptocurrency into euros at the going rate into its bank account.</p>	<p>Who should be paying tax? How much is due?</p>	<p>If the acquisition cost of the cryptocurrency to the individual exceeds or equals its selling price (a loss is incurred), the individual has no income (to attract PIT) from the cryptocurrency disposal. However, if the selling price is below market or if the deal aims to reduce the PIT base, the SRS may scrutinise the deal and recalculate taxable income to reflect the market price, in particular because the company later disposes of the cryptocurrency at the going rate and derives income attracting CIT under the legislation of its country of residence (Latvia – on dividend payment).</p>