

Personal Income Tax Act amended on virtual currency (3/51/18)

The Personal Income Tax (PIT) Act needed amending because procedures for measuring income from the sale of virtual currency were not precisely defined in PIT legislation. This article explores amendments to the PIT Act passed in their second reading as a matter of urgency on 13 December 2018.

Income from selling virtual currency will be deemed capital gains

The Anti-Money Laundering and Counter-Terrorist Financing Act provides that virtual currency is a digital representation of value that can be sent, stored or traded digitally and can function as a means of exchange but is not considered legal tender. According to its economic substance, income arising to an individual who buys virtual currency and sells it after a certain holding period may be deemed capital gains, but virtual currency is not on the list of capital assets in the PIT Act.

Since income from selling virtual currency is a special type of income, it will now be deemed capital gains and attract a 20% PIT under article 15 of the PIT Act. Yet virtual currency differs from traditional assets, and so the lawmaker sees no grounds for allowing the individual to offset any loss arising on the sale of virtual currency in the tax year against income arising on the sale of other assets in the tax year (shares, securities etc specified by article 11.9 of the PIT Act).

Capital gains arising on virtual currency sales will now be measured like other capital gains, i.e. the selling price less the acquisition cost, which the taxpayer can prove with one or more supporting documents. However, to mitigate risks if the taxpayer does not have documents to support the acquisition cost of any virtual currency, the amendments rule out the option of using any notional value for acquisition cost. Such an option is available for dealings in other capital assets such as real estate, where its updated or adjusted updated cadastral value in the year of sale is accepted as acquisition cost in certain cases.

The PIT Act will now clearly state that a capital gain arising on the sale of virtual currency is measured as the selling price less the original acquisition cost. A cost that cannot be accurately measured will be considered zero. Any losses suffered on virtual currency dealings can be offset only against capital gains on selling the same type of capital asset (i.e. virtual currency).

These are the most important of the amendments passed on 13 December, the rest being clarifications that align the current wording of the PIT Act with other pieces of legislation.

And the threshold of €55,000 for applying the progressive rate prescribed by the PIT Act has been replaced by a reference to the national insurance income cap laid down by the National Social Insurance Act (€62,500 being proposed from 2019).