

# Tax authority issues guidance on application of tax and accounting rules to virtual currency transactions 3/32/21



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The rapid evolution of digital financial services has led to virtual currency ("VC") being increasingly used in everyday payments. In July 2021 the State Revenue Service issued [guidance on the tax and accounting treatment](#) of virtual currency transactions, offering insights into the practical application of laws and regulations to income people earn from VC dealings. This article explores the personal income tax ("PIT") treatment where an individual buys and sells VC.

## Virtual currency definition

Currently the world has more than 2,100 VCs, some of which represent an alternative financial system. According to [Directive \(EU\) 2018/843](#) of the European Parliament and of the Council of 30 May 2018, VC is a digital representation of value that has the following features:

- It is not issued or guaranteed by a central bank or a public authority;
- It is not necessarily attached to a legally established currency; and
- It does not have a legal status of currency or money but is accepted by individuals or entities as a medium of exchange and can be transferred, stored and traded electronically.

In its ruling C-264/14 of 22 October 2015 the Court of Justice of the European Union found that VC is considered a direct contractual means of payment.

For PIT purposes VC is defined in the [Anti Money Laundering and Counter Terrorism and Proliferation Financing Act](#) as a digital representation of value that can be transferred, stored and traded electronically, and can function as a medium of exchange, but is not recognised as a legal means of payment, is not considered a banknote or coin nor any non-cash money or electronic money, and is not a monetary value accumulated in a payment instrument.

## PIT treatment

Income from VC sales attracts a 20% PIT as income from capital gains unless the individual has generated that VC. So a capital gain in this case arises when the income from the sale of VC is greater than the acquisition cost and related costs.

### *The timing of income*

The income arising on the sale of VC is treated as earned on the day the taxpayer receives money or other assets and the VC is converted into a legal currency such as euros or dollars.

Under **paragraph 97.1(1) of the Cabinet of Ministers' Rule No. 899, Application of Provisions of the Personal Income Tax Act**, where one VC is exchanged for another (and their value has increased since the original purchase), the tax payment obligation is postponed until the VC obtained in exchange is converted to a legal currency, such as euros or dollars.

#### *The purchase/selling price*

The purchase and selling price of VC is payment that is made or received in cash or in kind.

The acquisition cost can include expenses associated with acquiring the VC, for example:

- Stamp duties on documenting a transaction, confirming the right of succession, or validating a will or an inheritance contract;
- Interest paid on a loan to purchase VC if documentary evidence allows a connection between the loan and the purchase to be identified; or
- Commission fees and other similar expenses.

#### *Capital gains*

As with other cases where capital gains are calculated, a capital gain from VC is the selling price less the acquisition cost. If this cannot be identified, the cost is assumed to be zero.

For the income from VC, the individual must file a capital gains tax return according to their total quarterly income from capital assets:

Total quarterly income from capital assets (including income from VC)	Filing deadline	Payment deadline
< EUR 1,000	On or before the 15th day of the month following the quarter	The 23rd day of the filing month
> EUR 1,000	On or before 15 January in the year following the tax year	

It is important to note that a profit or loss made on each capital asset should be assessed separately. If the sale of one VC yields a profit exceeding EUR 1,000 in a quarter but the sale of another VC makes a loss in the same quarter, the two transactions should be reported on a capital gains tax return to be filed on or before the 15th day of the month following the quarter. The loss will reduce the PIT charged on the profit from the sale of the first VC. Profits generated by VC cannot be offset against losses suffered on other capital assets and vice versa.

*NB If the individual generates VC, the income has a different classification: it is considered business income and also subject to PIT but a different procedure should be applied.*

### **A practical example**

On 15 January 2021 Andrew bought one unit of VC(1) for a price equivalent to EUR 50 and paid EUR 5 commission. On 2 February 2021 Walden bought one unit of VC(2) for a price equivalent to EUR 60.

On 10 April 2021 Andrew and Walden made a mutual exchange of currencies so that Andrew obtained VC(2) valued at EUR 70 at that time and Walden got VC(1) worth EUR 67. The exchange did not result in any income for Andrew or Walden, so the transaction is not treated as a sale.

On 10 July 2021 Andrew sold the VC(2) for EUR 100. Since he is not dealing in other capital assets, the

income arising on the sale of the capital asset (VC) must be reported on a capital gains tax return to be filed on or before 15 January 2022.

*Calculating a capital gain*

Acquisition cost	Selling price	Capital gain	PIT
$50 + 5 = \text{EUR } 55$	EUR 100	$100 - 55 = \text{EUR } 45$	$45 \times 20\% = \text{EUR } 9$