

PORTUGAL FOR DIGITAL NOMADS AND CRYPTO OWNERS

Taxation, Legal Framework and opportunities



HOW PORTUGAL DEALS WITH THE CRYPTO

Crypto currency is not yet regulated by the Portuguese law. On a tax level we have several currents of opinions and also some binding informations from the portuguese tax department.

Portuguese tax authorities have issued two binding opinions stating the following:

The activity of buying and selling cryptocurrencies is not taxed as income under category B of the IRS, unless the taxpayer exercises it with habituality and regularity, according to the binding information regarding Case: 5 717/2015, order of 27-12-2016, of the deputy director-general of the IR.



ACTUAL SITUATION

Practical example

A – has 5000 units of Crypto initially bought by 1000 (either in cold wallet or Exchange)

A wants to cash out (partially or totally the amount)

A changes the Crypto to cash and is **resident in Russia**

4000 will be taxed at a 13% rate = 520 (tax) usable cash 4480

A becomes a tax resident in Portugal and performs the same activity
taxation 0% on the capital gains realized – usable cash 5000

Additional tax info

Please note that the problem of the taxation only arises once the Money enters the market as usable. This means that when the cash is in the Crypto cloud it will not be taxed. When it enters the bank sphere of the client it becomes a taxable thing in most of the countries, but as said previously not in Portugal.

Additional Tax Info Technical opinion(*)

An opinion is sought on the taxation of gains obtained from investments in cryptocurrencies

In terms of IRC, accounting income contributes to the formation of the taxable result for IRC under the general terms.

The activity of buying and selling cryptocurrencies is not taxed as income under category B of the IRS, unless the taxpayer exercises it with habituality and regularity, according to the binding information regarding Case: 5 717/2015, order of 27-12-2016, of the deputy director-general of the IR.

The referred binding information establishes that the sale of cryptocurrencies is not taxable under the Portuguese tax system, unless its regularity constitutes a professional or business activity of the taxpayer, in which case it will be taxed under category B.

In other words, if it is a sale of cryptocurrencies that, due to its regularity, constitutes an activity in itself, it is, according to this binding information, taxed under category B.

With regards to VAT treatment, there are two binding information. The binding information regarding Case No. 14 436 of 03/07/2019 considers that remuneration in cryptocurrency is a supply of services subject to VAT and that Article 9(27)(d) of the CIVA covers not only transactions relating to traditional currency, but also transactions relating to cryptocurrency.

The Binding Information regarding Case No. 14 763, of 28/01/2019, states that in relation to the documents to be issued by the entities from which the applicant buys bitcoins, if they do so in the exercise of an economic activity, or by the platforms, and in view of the absence of factual elements in the information request, it is clarified, in general, that there is only an obligation to issue an invoice with the requirements set out in the national legislation, in the situations identified in the previous point.

As regards the provision of bitcoin exchange services, if, as a result of the application of the rules of procedure: no. 14,763, location of services provided for in no. 6 and following of article 6 of the CIVA, the exchange transaction, carried out for consideration, is considered to be located in national territory, the corresponding invoice must be issued, under the terms of the CIVA, indicating as the reason for the non-assessment of the tax the application of the exemption provided for in article 9, no. 1, paragraph 27), sub-paragraph d) of the CIVA.

*This opinion has been issued by the accountants portuguese association and is based on binding informations issued by the portuguese tax department

REQUIREMENTS FOR THE TAX EXEMPTION

- Exemption is only applicable to individuals.
- If you do this as a profession you will be subject to taxation – this could be dealt with a discussion with the client and a careful planning
- Better if you are a tax resident in Portugal. In this case you can also benefit from the NHR regime that exempts you from taxation in certain types of income.
- Not being a company. Companies are subject to taxation on the capital gains realised with Crypto.



HOW TO CASH OUT TO A BANK

- One of the most difficult parts is to move the exchanged Money to a Bank and make the use of it in your normal Life. We have successfully made some cash outs. There are some rules though.
 - We use a private investment bank for the cash out – part of the cash out should remain on the bank and be managed by a swiss wealth manager according to the profile of the client.
 - In this situation client can also manage part of his cash to buy assets.
- Fees for the cash out – 1%* on the amount of each cash out made by the client (on the total amount of the assets of the client minimum € 7500,00).
- Annual fee for family office services 0,35% on the patrimony of the client.
- Wealth management will charge an annual fee on the wealth under management – 0,75% to 1%.

GOLDEN VISA

Joining the Cash out with the second citizenship

With the cash out and using the our service, client will be able to use the cash for the Golden Visa. This might be a key issue for some clients that want to have a second citizenship.

In this case we might also help your company in this as our team is as specific lawyers with this skills.

Our office can provide an end to end soluton to the client, presenting also the hypothesis for investment for the Golden Visa. Of course this is something that should be discussed, as we are also able to provide only the legal support to the applicant and family.

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