

May 2018

# Cryptocurrencies

On 6 April 2018, the South African Revenue Service (SARS) announced that it will continue to apply normal income tax rules to cryptocurrencies and will expect affected taxpayers to declare cryptocurrency gains or losses as part of their taxable income.

## What are cryptocurrencies?

A cryptocurrency is a digital or virtual currency designed to work as a medium of exchange.<sup>[1]</sup> The most prevalent cryptocurrency is Bitcoin.

## SARS' view

SARS indicated in its statement that cryptocurrency transactions are subject to the general principles of South African tax law. This means that any revenue received, gains made or losses incurred in respect of cryptocurrency transactions, may either be regarded as revenue in nature and included in the taxpayer's income, alternatively as capital in nature and subject to Capital Gains Tax (CGT) in terms of the Eighth Schedule of the Income Tax Act No 58 of 1962 (the Act).

In South Africa, the word "currency" is not defined in the Act. Cryptocurrencies are neither official South African tender nor widely used and accepted in South Africa as a medium of payment or exchange per the SARS statement. As such, cryptocurrencies are not regarded by SARS as a currency for income tax purposes or CGT.

Instead, cryptocurrencies are regarded by SARS as assets of an intangible nature.

## Capital vs Revenue test

The test to determine the nature of the cryptocurrency transaction and whether the transaction is of a revenue or capital nature, must include taking into account the taxpayer's intention when acquiring the cryptocurrency and must be decided considering the facts and circumstances of each case.

South African courts have decided that the primary intention at the time when the asset has been acquired is conclusive in determining whether the asset is held on revenue or capital account, unless other factors exist that display that the asset has been sold in the scheme of profit making. If it was the intention of the taxpayer to obtain the cryptocurrency for the specific purpose of profit-making, the asset will be considered to be "trading stock" and of a revenue nature and the income derived therefrom is required to be included in the taxpayer's taxable income.

## How will the tax be calculated?

Since cryptocurrency transactions are subject to the general principles of South African tax law, depending on whether the cryptocurrency is held on revenue or capital account, the income tax or CGT calculation in respect of cryptocurrency transactions will be the same as for any other revenue or CGT calculation.

SARS indicated that taxpayers are entitled to claim expenses associated with cryptocurrency accruals or receipts, provided such expenditure is incurred in the production of the taxpayer's income and for purposes of trade.

Taxes on cryptocurrencies will be payable as provisional taxes or assessed taxes.

## Value-Added Tax (VAT)

The 2018 annual budget review indicates that the VAT treatment of cryptocurrencies will be reviewed. Pending policy clarity in this regard, SARS will not require VAT registration as a vendor for purposes of the supply of cryptocurrencies.

## Important note

The onus is on taxpayers to declare all income and gains including cryptocurrency-related taxable income in the tax year in which it is received or accrued. Failure to do so could result in interest as well as understatement penalties of up to 200%.

Taxpayers who are uncertain about specific transactions involving cryptocurrencies may contact us for assistance with obtaining guidance from SARS through channels such as Binding Private Rulings (depending on the nature of the transaction).

<sup>[1]</sup> <https://cointelegraph.com/bitcoin-for-beginners/what-are-cryptocurrencies>

**For more information, please contact:**



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