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The future of digital asset taxes in Thailand

Digital assets have become rapidly popular among Thai investors in the past few years as their value tends to rise dramatically higher than other traditional assets, yet with higher risks. According to the Emergency Decree on Digital Asset Businesses, 2018, digital assets consist of cryptocurrencies and digital tokens. Digital assets, especially cryptocurrencies, can yield incredible returns and profits, and are easy to trade via online applications.

The 2022 Digital Global Overview Report, published by creative agency We Are Social and social media management platform Hootsuite, has revealed that 20.1% of the Thai population are crypto holders, while the global average rate is 10.2%. Despite high volatility in the crypto market, investing in cryptos is extremely attractive to Thai investors.

Another asset, the digital token, is starting to catch Thai entities' interest, as they aim to expand their fundraising strategies beyond the common IPO of a company's ordinary shares. Entities are offering digital tokens through the Initial Coin Offering (ICO) Portal approved by the Securities and Exchange Commission (SEC) of Thailand. Investors in digital tokens may receive benefits attached to the tokens as specified in the prospectus or white paper, e.g. income or profit-sharing under an investment token, or the right to use a product or service under a utility token.

When income, profits or benefits arise from digital assets, taxation is inevitable. The Revenue Code of Thailand provides five types of taxes applicable to those dealing with digital assets:

WITHHOLDING TAX

Only profits derived from the trading of cryptocurrency and digital tokens (e.g. sale and exchange), and profits or remuneration derived from farming digital tokens are subject to withholding tax.

- 15% if an investor is an individual;
- 15% if an investor is a foreign company or juristic person who does not conduct business in Thailand, but receives assessable income paid from or in Thailand.

If the transaction is conducted via digital asset exchanges approved by the SEC and the Minister of Finance (MoF), the payer does not have to deduct withholding tax.

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PERSONAL INCOME TAX

Any person who earns an income from digital assets in the following ways will be deemed to receive “assessable income” and thus be subject to personal income tax:

- **Cryptocurrency or digital token trading.** Profits derived from cryptocurrency or digital token sales or exchange are considered “assessable income”. The cost of crypto and digital tokens must be calculated by applying a method recognized in the accounting standards, such as first-in-first-out (FIFO) or moving average cost (MAC), which must be calculated separately for each digital asset. The chosen method must be applied consistently throughout the entire tax year.
- **Cryptocurrency mining.** Profits derived from cryptocurrency mining are considered “assessable income”. The process of mining cryptocurrency, that is creating new crypto by “solving mathematic puzzles”, will not be considered “assessable income” until the cryptocurrency is traded. The cost of cryptocurrency and digital tokens must be calculated by applying a method recognized in the accounting standards, such as FIFO or MAC, which must be calculated separately for each digital asset. The chosen method must be applied consistently throughout the entire tax year.
- **Cryptocurrency earnings as salary or wages.** The value of cryptocurrency income received as salary or wages can be treated as cost when it is sold, while the value at the time of acquisition or the average price on the date of acquisition is used to calculate revenue, which shall be a reliable reference price. The chosen method must be applied consistently throughout the entire tax year.
- **Gift or airdrop of cryptocurrency or digital tokens.** The value of cryptocurrency or digital token income received as a gift or airdrop can be treated as cost when cryptocurrency or digital tokens are sold, while the value at the time of acquisition or the average price on the date of acquisition is used to calculate revenue, which shall be a reliable reference price. The chosen method must be applied consistently throughout the entire tax year.
- **Cryptocurrency or digital token farming (e.g. yield farming, or staking).** The same concept as the previous two cases applies to determine benefits or remuneration derived from farming cryptocurrency or digital tokens.

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The taxpayer can use the withholding tax amount as a tax credit to offset against the calculated personal income tax when a tax return is filed.

On 8 March 2022, the cabinet of Thailand approved that, for personal income tax calculations, a loss from digital asset trading can be offset against profits incurred in the same tax year if such trading is conducted through the digital asset exchanges approved by the SEC and MoF, from 14 May 2018 onwards.

CORPORATE INCOME TAX

The corporate income tax rate is 20% of net profit. Juristic persons who have received investment promotion may receive a reduction of the corporate income tax or may be exempted from paying the tax under the laws or regulations for investment promotion (i.e. the Board of Investment, or Eastern Economic Corridor).

VALUE ADDED TAX (VAT)

According to section 77/1 (10/1) of the Revenue Code, electronic services means services including intangible assets that are delivered via the internet or any other electronic networks. The service must be substantially rendered automatically and impossible to render without information technology.

A digital asset is considered a type of electronic service, therefore business operators that sell products or provide services to clients or customers related to digital asset transactions must collect VAT at 7% of the sale price from clients or customers.

On 8 March 2022, the cabinet approved a VAT exemption for the transfer of digital assets via digital asset exchanges approved by the SEC and MoF, and for the transfer of crypto issued by the Bank of Thailand (Retail Central Bank Digital Currency, or Retail CBDC), in connection with a cryptocurrency development and testing programme issued by the Bank of Thailand for public use from 1 April 2022 to 31 December 2023. Digital tokens issued in the primary market or ICO portals are still subject to VAT, but the revenue department is now considering whether this should also be exempted.



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SPECIFIC BUSINESS TAX

In the future, the revenue department may consider changing the type of tax from VAT to specific business tax for some types of digital assets.

Since digital assets have only recently become popular and widespread around the world and in Thailand, the relevant Thai laws and regulations, especially for taxation, are still being reviewed and amended to keep up with the fast-growing digital asset businesses.

It is important that crypto and digital token investors, and digital asset business operators, closely monitor the status of the regulations and upcoming amendments, which are expected to be implemented this year or in future years.

For any inquiries related to taxation on digital asset businesses or digital assets and related regulations, including general tax regulation, please contact ILCT Ltd. via email at law@ilct.co.th.

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