# The issues surrounding cryptocurrency in Malaysian taxation

*Capital Gains Tax subject to cryptocurrency should be introduced in the country's next budget*

Bloomberg

by TMR

**CRYPTOCURRENCIES** are not recognised by regulators in many countries. Also known as digital or virtual currencies and/or tokens, they are created or mined, and traded privately by individuals or groups for transactions.

It was developed as an alternative to fiat money, which, according to Universiti Sains Islam Malaysia accounting professor Datuk Dr Mustafa Mohd Hanefah, had its own weaknesses, especially during inflationary times and economic downturns.

"It is said to be not stable during economic crises and heavily controlled and monitored by central banks. Malaysia faced this problem during the 1997-1998 Asian financial crisis.

"Until today, cryptocurrencies are not regulated nor supervised by any central banks in the world. Thus, cryptocurrencies are not recognised as legal tenders in any country," he said.

Bitcoin was the first cryptocurrency developed in 2008 and issued in 2009. Ever since then, a number of other cryptocurrencies like Ethereum, XRP, Litecoin, Dogecoin and Ripple, among others, have been mined and traded by individuals and companies globally.

There are more than 1,000 cryptocurrencies in circulation now and many more in the pipeline.

Lately, cryptocurrencies have become very popular, including among women miners, traders and investors, which Mustafa attributed to the sudden rise in Bitcoin's value that had skyrocketed ever since it was launched in 2009.

In 2011, one Bitcoin went up to US$1,000 (RM4,150), but later crashed.

"The price has been very volatile. After a number of ups and downs, Bitcoin reached an all-time high of US$62,000 (RM254,200) in March this year," he said.

However, the price of Bitcoin fell again after Elon Musk of Tesla Inc claimed that it was not environment-friendly. China, too, recently decided not to recognise cryptocurrencies.

Mustafa said the rise in Bitcoin's and other digital currencies' values during the Covid-19 pandemic can be attributed to the poor performance of the stock markets as global economy was affected by lockdowns and economic standstill in almost every country.

"World economy nosedived due to the pandemic and almost all stock markets were affected. Investors wanted an alternative and saw the opportunity in digital economy," he added.

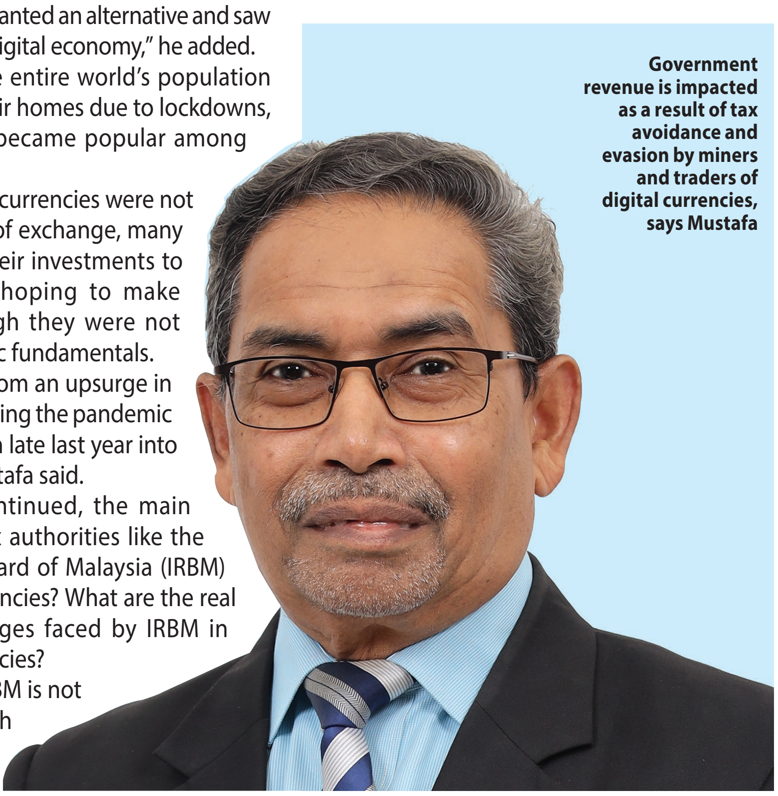
As practically the entire world's population was confined to their homes due to lockdowns, online businesses became popular among consumers.

"Although digital currencies were not used as a medium of exchange, many investors shifted their investments to these currencies, hoping to make money even though they were not backed by economic fundamentals.

"Many profited from an upsurge in these currencies during the pandemic that happened from late last year into early this year," Mustafa said.

However, he continued, the main issue is how do tax authorities like the Inland Revenue Board of Malaysia (IRBM) classify digital currencies? What are the real issues and challenges faced by IRBM in taxing cryptocurrencies?

"In actual fact, IRBM is not able to collect much income tax or other taxes because of the unique characteristics of cryptocurrencies," he said.



**Government revenue is impacted as a result of tax avoidance and evasion by miners and traders of digital currencies, says Mustafa**

The unique characteristics of cryptocurrencies make it very different from fiat currencies. As such, cryptocurrencies pose many problems and challenges to central banks and tax authorities like IRBM.

IRBM, like other tax authorities the world over, is aware of what is happening to the dynamic developments of cryptocurrencies and how investors and traders are profiting from digital currencies and evading or avoiding income tax and other taxes.

"This is a world-wide phenomenon," Mustafa said, adding that Malaysian investors who are gaining or profiting from cryptocurrencies should declare such income under section 12 of the Income Tax Act 1967 (ITA 1967).

According to IRBM's updated guidelines issued in 2019 on Taxation for E-Commerce transactions that include digital currencies, gains from cryptocurrencies are also subject to income tax under Section 3 of the ITA 1967, irrespective whether the income is earned from cryptocurrencies or from conventional business transactions.


**Cryptocurrencies pose many problems and challenges to central banks and tax authorities like IRBM**

"This is based on the principle of neutrality. Government revenue is impacted as a result of tax avoidance and evasion by miners and traders of digital currencies.

"Thus, there must be a special unit to gather all information from websites and social media, so that the players do not escape being taxed. Besides, IRBM should also conduct audits and investigations to ensure that players of this industry report their income," Mustafa commented.

In the US, the UK, Australia and Canada, all Bitcoin transactions are treated as taxable transactions and are subject to Capital Gains Tax (CGT) or income tax.

Most countries, including the UK and Australia, are also treating the exchange of Bitcoin as two separate transactions of buying and selling. In this case, any gains from these transactions are subject to CGT as well as Goods and Services Tax or Value-Added Tax.

However, Malaysia does not impose CGT on gains from trading shares in Bursa Malaysia or cryptocurrencies. CGT is only applicable on gains from disposal of real properties or shares in a real property company.

"As such, it is a big loss of revenue to the country. In order to curtail tax avoidance or evasion, CGT subject to cryptocurrency should be introduced in Malaysia's next budget, including taxing the gains on disposal of investments and taxes on the increase in the value of cryptocurrency.

"The government should also revise Paragraph 28 Schedule 6 of the ITA 1967 which exempts income arising abroad from being taxed in Malaysia, if the income is received in Malaysia," the accounting professor said.

He concluded that it is important to strengthen the cooperation between the government and private agencies which are directly involved with e-commerce activities for the country's future development.