



GUIDELINES

TAX TREATMENT ON DIGITAL CURRENCY TRANSACTION

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TAX TREATMENT ON DIGITAL CURRENCY TRANSACTION

INLAND REVENUE BOARD OF MALAYSIA

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GUIDELINES OF THE DIRECTOR GENERAL

Section 134A of the Income Tax Act 1967 provides that the Director General is empowered to issue Guidelines that the Director General thinks expedient or necessary.

The Guidelines are published as guidance to the public and officers of the Inland Revenue Board of Malaysia. The Guidelines also provide the Director General's clarification of a particular provision of the tax law, or to facilitate the compliance of the law or any other matter relating to it.

The Director General may revoke, revise or amend any part or the whole of these Guidelines by publishing new Guidelines.

**Director General of Inland Revenue
Inland Revenue Board of Malaysia**

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1. INTRODUCTION

- 1.1. The Director General of Inland Revenue Board of Malaysia (DGIR) had issued the Guidelines on Taxation of E-commerce Transactions (e-CT) which was published on 13 May 2019 and the Guidelines on Tax Treatment of Digital Currency Transactions, which was published on 26 August 2022.
- 1.2. This Guidelines is issued to replace the Guidelines dated 26 August 2022 following recent legislative amendments made to the Income Tax Act 1967 (ITA 1967).
- 1.3. In situations where Malaysia has a Double Taxation Avoidance Agreement (DTAA) with a Contracting State, the relevant terms of the DTAA shall apply.
- 1.4. This Guidelines applies to any person who acquires or disposes digital currency and those involved in digital currency businesses such as trading, mining and digital currency exchanges.
- 1.5. For the purpose of this Guidelines, digital currency and digital token refer to digital financial assets based on distributed ledger technology and digital representations of value secured by cryptography or contractual rights that can be transferred, stored or traded electronically.
- 1.6. The use of the terms digital currency and digital tokens also refers to digital currencies such as Bitcoin, Ethereum (Ether) or any other digital currencies with similar characteristics as described in paragraph 1.5 of this Guidelines. The term digital currency and digital tokens are used interchangeably in this Guidelines.

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- 1.7. For the list of approved digital currencies exchanges, the DGIR will refer to the latest List of Registered Digital Asset Exchanges issued by the Securities Commission Malaysia.

2. INTERPRETATION

The terms used in this Guidelines have the following meanings:

“Capital Asset” means—

- (a) movable or immovable property situated outside Malaysia including any rights or interests thereof; or
- (b) movable property situated in Malaysia which is a share of a company incorporated in Malaysia not listed on the stock exchange (including any rights or interest thereof) owned by a company, limited liability partnership (LLP), trust body or co-operative society;

“Digital currency” means a representation of value which is recorded on a distributed ledger whether cryptographically-secured or otherwise, that functions as a medium of exchange and is interchangeable with any money, including the crediting or debiting of an account.

“Digital token” means a digital representation which is recorded on a distributed digital ledger whether cryptographically-secured or otherwise but does not include—

- (a) debentures, stocks or bonds issued or proposed to be issued by any government;
- (b) shares in or debentures of, a body corporate or an unincorporated body; or

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(c) units in a unit trust scheme or prescribed investments,

and includes any right, option or interest in respect thereof.

3. TAX TREATMENT

3.1 General tax treatment on the acquisition and disposal of digital currency

3.1.1 In general, the taxability of digital currency transaction in Malaysia is based on section 3 of the ITA 1967 where income of any person accruing in, derived from Malaysia, or received in Malaysia from outside Malaysia is subject to tax.

3.1.2 A transaction involving digital currency will be subjected to income tax in Malaysia if the main activities or business operations are carried out in Malaysia, or if the business is located in Malaysia. However, all facts and circumstances must be considered in determining whether a source of income is accruing in, derived from Malaysia, or received in Malaysia from outside Malaysia and is therefore, taxable in Malaysia.

3.1.3 A person who actively trades digital currency may be deemed as generating income from such activity. Therefore, the profits derived from such digital currency trading will be subject to tax.

3.1.4 Gains / losses from the disposal of digital currency or digital tokens of a trading nature will be taxable / allowable as deduction.

3.1.5 Vide the amendments under the Finance Act (No. 2) 2023 which came into effect on 1 January 2024, Malaysia imposes Capital

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Gains Tax (CGT) on gains or profits from the disposal of capital assets situated in or outside Malaysia, or on the disposal of shares under section 15C of the ITA 1967 for taxpayers that are companies, LLPs, trust bodies, and co-operative societies under paragraph 4(aa) of the ITA 1967. The capital assets subject to tax differ between assets in Malaysia and those outside Malaysia. For movable property situated in Malaysia, only unlisted shares of companies incorporated in Malaysia are subject to CGT. Therefore, any capital gains from the disposal of digital currency that are not revenue income under paragraph 4(a) of the ITA 1967 will not be subject to CGT.

- 3.1.6 For capital assets in the form of movable and immovable property located outside Malaysia, capital gains from the disposal of such property are only taxable on companies, LLPs, trust bodies, and co-operative societies. Therefore, capital gains from the disposal of capital assets for these categories of taxpayers are taxable if the gains are remitted into Malaysia.
- 3.1.7 Taxpayers may enjoy a tax exemption on capital gains from the disposal of capital assets that are remitted into Malaysia if the specified conditions are fulfilled. Reference may be made to the **Guidelines on Tax Treatment on Gains from the Disposal of Foreign Capital Assets Received from Outside Malaysia** available at www.hasil.gov.my for further explanation.
- 3.1.8 An explanation of the considerations taken in determining whether digital currency gain is capital or revenue in nature is provided in the Appendix.

3.2 Tax treatment in relation to specific transaction involving digital currency

3.2.1 Carrying out a digital currency business or using digital currency in business

i. Digital currency trading

A business that buys and sells digital currency in the ordinary course of its business will be taxed on the profits derived from trading in digital currency, similar to trading stock. Any expenses incurred in the production of the taxable income or any losses suffered from digital currency trading activity may be allowed as tax deduction.

Example 1

Esbisee Sdn. Bhd. carries on a business of buying and selling digital currency. On 12 January 2021, Esbisee Sdn. Bhd. purchased 100 units of digital token Y for RM1,000,000 and sold 50 units of digital token Z for RM1,700,000. Since Esbisee Sdn. Bhd. operates a digital currency business, the sale of digital token Z amounting to RM1,700,000 must be reported as sales, and the cost of purchasing digital token Y may be allowed as a deduction. If Esbisee Sdn. Bhd. incurs a loss, such loss may be allowed as a tax deduction.

ii. Digital currency mining

Any person who carries on a mining business or conducts mining activity is subject to income tax under the existing legal provisions. Expenses related to the mining business may be

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allowed as tax deduction, and losses incurred may be allowable.

The taxability of a miner's profit from the disposal of payment tokens will depend on whether such profit is capital or revenue in nature, based on the badges of trade. The factors to be considered in determining whether a gain is capital or revenue in nature are explained in the Appendix.

A miner may also be hired to mine digital tokens on behalf of another person (a client). Fees received from such mining activities may be subject to tax under existing legal provisions.

- iii. Receiving and making payment for business transaction in digital currency

If a taxpayer carries on a business activity and uses digital currency as a method of payment in that business, transaction involving digital currency must be treated in the same manner as ordinary business transaction, such as recording digital currency received as payment for goods or services provided as sales to the business.

Generally, a business that receives digital currency as payment for goods or services must record the sales based on the open market value of the goods or services in Ringgit Malaysia. The same applies to business expenses and asset purchases paid using digital currency.

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Example 2

Event League Company Sdn. Bhd. is an organizer of the international football match at Bukit Jalil Stadium. Each ticket is sold at RM100. Payment can be made using digital currency. The digital currency received for the ticket price (in RM equivalent) is recognized as sales (tickets sold at RM100 each) by Event League Company Sdn. Bhd.

In situations where the transaction is agreed based on a specified amount of digital currency, the value of goods sold or purchased, or a contract of services, is determined based on the value of the digital currency at the point of the transaction.

Example 3

Ain Enterprise purchases used equipment from Cafe Alif Sdn. Bhd. for one unit of Bitcoin. At the point of the transaction, one unit of Bitcoin is equivalent to RM15,000.

The value of the digital currency received for the equipment, RM15,000, is recognised as sales of equipment by Cafe Alif Sdn. Bhd.

Ain Enterprise will recognise the used equipment as a business asset at the value of RM15,000.

Example 4

Rajesh provides IT consulting services to Envisage Sdn. Bhd. and receives 10 Ether as payment for his services. The value of one Ether at the time of payment is RM18,970. The amount

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equivalent to RM189,700 for 10 Ether will be recognised as Rajesh's income.

Deduction for any expenses incurred using digital currency in the production of the taxable income will be allowed as tax deduction under subsection 33(1) of the ITA 1967.

iv. Paying salaries and wages to employees in digital currency

When salary and wages are paid using digital currency, such payments are allowable as business expenses. For the employee, salaries and wages received are taxable. The value of the salaries and wages is based on the employment contract and the value of the work performed.

Example 5

Patrick Wong works at Capital Blockchain Sdn. Bhd. His signed employment contract requires that his salary to be paid in digital currency equivalent to RM10,000 per month.

Patrick Wong's employment income is subject to tax, and Capital Blockchain Sdn. Bhd. is entitled to claim a tax deduction for salary payment of RM10,000 per month.

Note: The employer's responsibilities under the existing Monthly Tax Deductions Rules continue to apply.

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**3.2.2 Investment in digital currency and other transactions
involving digital currency**

i. Investment

A person's investment in digital currency and digital tokens is considered as a business activity if the investment activity contains badges of trade.

At present, CGT is not imposed on gains or profits from the disposal of capital assets in the form of digital currency that are capital in nature. This treatment applies where the disposal of the digital currency and digital tokens takes place in Malaysia.

If investment gains from digital currency and digital token transactions that are capital in nature are brought into Malaysia from outside Malaysia, such gains may be subject to tax if the income does not meet the economic substance requirements provided in the **Guidelines on Tax Treatment on Gains from the Disposal of Foreign Capital Assets Received from Outside Malaysia** as stated in paragraph 3.1.7 of this Guidelines.

The taxability of gains from investment will depend on whether the gains are capital or revenue in nature, based on the determination of the badges of trade. The factors to be considered in determining whether a gain is capital or revenue in nature are explained in the Appendix.

Gains or losses (in digital currency and digital token investment transactions) are the difference between the amount received

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as consideration for the digital currency and the adjusted base in the digital currency.

The adjusted base is the amount spent to acquire the digital currency, including fees, commissions and other acquisition costs.

Example 6

Referring to Example 3, the value of Bitcoin increased from RM15,000 to RM30,000 after three years. The Bitcoin was disposed of by Cafe Alif Sdn. Bhd. through a platform approved by the Securities Commission Malaysia in Malaysia, with a disposal gain of RM15,000.

If Cafe Alif Sdn. Bhd. holds the Bitcoin in a manner that meets the criteria for a capital gain, the disposal is not subject to tax.

Example 7

Effendi purchased two units of digital currency worth RM64,000 on 30 June 2019 for investment purposes. On 31 December 2019, he disposed of the two units of the digital currency for RM80,000. This was the only transaction carried out by Effendi. The gain of RM16,000 is not taxable because it is capital in nature.

The mere disposal of digital currency held as an investment is deemed as a realisation of the investment. Therefore, the income received is not taxable. Any expenses related to such income will not be allowed as deduction.

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ii. Mere acquisition and disposal of digital currency

When a person acquires digital currency, for example, Bitcoin and Ether, merely as part or full payment of any goods and services, the acquisition and disposal of the digital currency do not necessarily give rise to taxation.

Example 8

Fakhri wants to attend a performance at Istana Budaya. The organiser offers a 20% discount on the ticket price if payment is made using digital currency. Fakhri purchases Bitcoin equivalent to the discounted ticket price of RM250 and pays the organiser. The disposal of the Bitcoin by Fakhri is not necessarily subject to tax.

However, any disposal of payment tokens may be subject to taxation if the DGIR finds that purpose of the purchase is related to trading or any other income-generating purpose.

iii. Receiving digital currency from free distribution or splits

A person may receive digital currency for free as a promotional or marketing tools, or as a split of existing digital currency, such as through an airdrop or hardfork.

Such tokens are not regarded as income to the recipient. Therefore, tax is not imposed at the time of receipt. However, the above may be subject to tax if the tokens are given in exchange for specific goods or services.

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Gains from future disposal of such tokens will be taxable if the gains are revenue in nature. If the disposal takes place in Malaysia and the gains are capital in nature, such gains are not taxable.

iv. Exchanges of digital currency

The taxability of gains or losses from exchanging one digital currency for another will depend on whether the digital currency involved is capital or revenue asset, and consequently whether the gains or losses arising from the exchange are capital or revenue in nature.

4. ACQUISITION COST OF DIGITAL CURRENCY

For tax purposes, the acquisition cost of digital currency must be determined in Ringgit Malaysia. Since digital currency is treated as an intangible asset for tax purposes, any digital currency held by a company must be valued in Ringgit Malaysia.

The acquisition cost of digital currency is determined based on the 'First In, First Out' (FIFO) principle, unless a taxpayer can prove otherwise. If the acquisition cost of the current asset cannot be determined, the digital currency will be valued using fair value, that is, at the rate applicable on the date of the transaction and based on the acceptable and verifiable digital currency exchange.

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Example 9

A company that buys and sells digital currency as part of its business activities purchased digital currency A in 2020 as follows:

Purchase Date	Number of Units purchased	RM per unit	Total (RM)
1 Sept 2020	500 units	10,000	5,000,000
1 Oct 2020	300 units	15,000	4,500,000
1 Nov 2020	700 units	5,000	3,500,000
Total	1,500 units		13,000,000

The company then converted 600 units of digital currency A into Ringgit Malaysia when the digital currency A was valued at RM20,000 per unit in January 2021. In the absence of other evidence, the acquisition cost is determined based on the FIFO principle. Therefore, the company derived a gain of RM5,500,000 [600 units x RM20,000 – ((500 units x RM10,000) + (100 units x RM15,000))]. If the company can prove that the units sold were from the batch purchased on 1 November 2020, the acquisition cost of those units is RM5,000 each and the company is deemed to gain profit of RM9,000,000 [600 units x RM20,000 – (600 units x RM5,000)].

5. DIGITAL CURRENCY WITHOUT A PUBLISHED VALUE

If digital currency is received in exchange for property or services, and that digital currency is not traded on any digital currency exchange and has no published value, then the fair value of the digital currency received is equal to the fair value of the property or services exchanged for the digital currency at the time the transaction occurs.

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6. RECORD KEEPING

Records that must be kept in relation to digital currency include:

- records to determine the type of transaction – including the whitepaper
- records to determine the value of digital currency based on online exchanges
- dates of transactions
- name of the other party i.e. digital currency address
- receipts of purchase / transfer for digital currency
- exchange records
- other records such as agents records, wallet keys, software
- bank statements
- receipts / invoices of business expenses

7. DISCLAIMER

7.1 The examples in this Guidelines are for illustrative purposes only and are not exhaustive.

7.2 Where there are any inconsistencies between the two versions of these Guidelines, the National Language version shall prevail.

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Determining the existence of badges of trade

The general tax treatment for gains / losses from the disposal of digital currency is based on whether the gains / losses are capital or revenue in nature.

Badges of trade such as the profit-making motive, the nature of the asset and changes to the asset will be considered when determining whether such gains are taxable.

Below are factors to be considered in determining whether elements of trading exist in transactions involving digital currency:

BADGES OF TRADE	EXPLANATION
Nature of the subject	This refers to the nature of the digital currency being bought and sold. Digital currency may be regarded as a trading subject when it is purchased in large quantities.
Period of ownership	This refers to the length of time the digital currency is held. The shorter the holding period, the more likely it is that the digital currency will be regarded as held for trading purposes.
Frequency of transactions	A high frequency of similar digital currency transaction is more indicative of trading activity compared to isolated transaction.

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Additional work	This refers to additional work performed on digital currency to make it more marketable or additional effort made to find or attract buyers. If such actions are taken, the disposal of the digital currency is more likely to be deemed as trading activity.
Circumstances of the realisation	There may be situations that do not indicate trading (e.g. a company is forced to sell digital currency due to compulsory acquisition, sudden urgent need of cash or threat of seizure by creditors).
Motive	This refers to whether there is an intention to trade at the time the digital currency is acquired. If a person conducts activities in a business-like manners, such as developing a business plan, maintaining accounting records or advertising a digital currencies business, the intention is clearly to trade in a digital currency business.
Method of financing	This refers to how the purchase of the digital currency is financed. Short-term financing is more indicative of trading than long-term financing. The company's financial position and its ability to hold the digital currency will also be considered.
Other factors	Other factors include whether any feasibility studies are carried out, the availability of documentation, or other evidence possessed by the company to show its intention with regard to the digital currency.

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No single badge of trade is a decisive pointer to the existence of trading. The determination of whether badges of trade exist may be determined by considering all relevant factors.