

Crypto assets

It is becoming more common to see clients investing in different types of crypto assets and the taxation of such activities can be complex.

The Irish Revenue has stated that no special rules for crypto asset transactions are required, and the taxation treatment will depend on the activities and the parties involved using the relevant legislation and case law to determine the correct tax treatment.

One of the first matters to consider is whether the individual/entity is carrying out a trading or an investment activity as this will impact the taxation treatment.

One of the thorny issues that needs to be considered is how to identify the location of cryptocurrency for Irish tax purposes. The UK Revenue have issued guidance to say that the location of cryptocurrency is linked to the tax residence status of the beneficial owner. However, conflicting guidance also exists suggesting that the location of cryptocurrency should be linked to the location of the private key/digital wallets, etc. The issue of the location of cryptocurrency is not something that would be of concern for Irish resident individuals unless that individual happened to be a non-Irish domiciled person who may be looking to rely on the remittance basis of taxation for such crypto transactions. The Irish Revenue have issued guidance to say that the onus is on the taxpayer to prove where the gain accrued and where the location of the crypto-asset giving rise to a taxable gain cannot be confirmed by the taxpayer, that gain is chargeable to tax in Ireland based on residence rules.

One helpful argument which could be an indicator that the crypto activities are located outside of Ireland for Irish tax purposes is if a custodian is in place. However, to date crypto asset custodians appear to be rare due to difficulties in providing crypto asset custody services such as storage of the crypto assets.

As you can see from the above this area is in its infancy from an Irish Revenue perspective and we would expect more guidance as we move through the evolving landscape of individuals investing in crypto assets. However, until then we have to use existing Irish laws and guidance to determine the Irish tax treatment for crypto asset investments.

Should you have any questions that relate to the taxation of crypto assets please feel free to contact lisa@kta.ie or any one of our team.