

Gökçe

The Resolution

January 2018

Issue

02

THE BIG TAX QUESTION ON BITCOIN



Highlights of this issue

International Situation
of Bitcoin

For further information please contact us at contact@gokce.av.tr

All Rights Reserved

THE BIG TAX QUESTION ON BITCOIN

Recently, Bitcoin is a hot topic amongst economies in the world, legal community, investors, entrepreneurs and stock traders and becoming increasingly prevalent currency as a tax-free and easy money-making method. While Bitcoin becomes one of the most-traded currencies and strengthens its position in the economies around the world, there are various obscureness and it is required to make classifications and recognitions due to it is a brand-new phenomenon. The reflection of such non-status position of Bitcoin is being exempted from tax obligations. In this regard, the Central Bank of Republic of Turkey (Central Bank), Capital Markets Board of Turkey (Board) and the Ministry of Finance (Ministry) are willing to take steps to classify Bitcoin and such cryptocurrencies for taxation. So far, there are three possibilities for cryptocurrencies as a potential tax item from the point of tax mechanism: Considering Commodity, Securities or Currency. For sure each of the possibilities is open to debate.

In case cryptocurrencies are recognized as securities, they will be considered assets which might bring profits as a result of being a financial value. However, Board is against such recognition due to cryptocurrencies do not fall in the scope of the rule that the assets considered as securities shall have a real value.

Notwithstanding, considering Bitcoin and the other cryptocurrencies derived from Bitcoin as “currency” has been brought to the agenda. In this case the income obtained with the cryptocurrencies is not classified as any items of



income designated in Income Tax Law. However, as a result of considering cryptocurrencies as currency, Bitcoin will be required to be income and even if the wages might be paid in cryptocurrencies as seen recently. Then, it is possible to not pay VAT and creates a discussion depending on whether the source of Bitcoin’s income is located in Turkey. The problem is that Blockchain system makes impossible to track the miners’ (users of the system) activities and to cancel the transactions retrospectively unlike the usual banking transactions. It basically creates complication and insecure financial environment. Therefore, Central Bank is against to consider the cryptocurrencies as “currency” by claiming that even if it is a virtual asset, any asset considered as currency shall be issued in return of a specific valued asset.

In case the cryptocurrencies are considered as commodity, the income arising from the exchange of them is classified commercial earning due to such exchange is commercial activity. This sort of income will be considered as incidental revenue or value appreciation. Considering the income earners who their income exceeded TL 24,000 for 2017 shall file income tax return and pay income tax between 15-35% of their income, regular Bitcoin traders or traders who are able to reach this quantity at the first time will pay income tax. Other than this, it should be paid %18 of the income as VAT. It might be pointed out that most favoured classification for cryptocurrencies is being commodity according to Board and the Central Bank.

INTERNATIONAL SITUATION OF BITCOIN

Since Bitcoin has strengthened its situation in the market after international and blue chip companies such as Microsoft, Bloomberg, Subway, Wikipedia have started to use it, many countries have begun to make legislative acts regarding cryptocurrencies. For instance, Canada considered the cryptocurrencies as commodity and regulated it under money laundering law; India is also sceptical about cryptocurrencies and set out the rules under money laundering law. However, they stipulate the rules that enable Bitcoin to exchange as gold value for the purpose of tracing the transactions in India Stock Market. Sweden, Denmark, the Netherland and South Korea considered the cryptocurrencies as future of currency. They made legislations to legalize it and to promote cryptocurrencies' using around their countries. England gives the cryptocurrencies a privileged position amongst other currencies, however, also imposes VAT. Finland exempts Bitcoin exchange transactions from VAT. Australia considers Bitcoin as commodity and there is no specific regulation. Moreover, Iceland, Bangladesh and Bolivia have banned Bitcoin exchange. Thailand argues that it is illegal due to there is no legislative act. Other than this, Ecuador have banned Bitcoin to ensure that it cannot be a competitor to their cryptocurrency that will be developed.

Apparently, it is difficult to give a legal status to Bitcoin and other cryptocurrencies around the world and it will be on the agenda for a long time. In case you are using cryptocurrencies in your company or your daily day life or have plan to use, you need to pay close attention to the legal requiremens, especially the tax legislations.



Answers. Not theories.

Gokce Attorney Partnership

Editörler:



Doç. Dr. Ali Paslı
ali.pasli@gokce.av.tr



Aslihan Kayhan
aslihan.kayhan@gokce.av.tr



Alican Çalışkan
alican.caliskan@gokce.av.tr



Mehmet Topluıldız
mehmet.topluyildiz@gokce.av.tr

About our firm

Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, debt recovery, real property, and commercial litigation. Please visit our web site at www.gokce.av.tr for further information on our legal staff and expertise.

Please contact us at contact@gokce.av.tr
0 212 352 88 33

The Resolution olara is prepared and published for general informative purposes only and does not constitute legal advice or create an attorney-client relationship. Should you wish to receive further information, please contact Gokce Attorney Partnership. No content provided in The Resolution can be reproduced or re-published without proper attribution or the express written permission of Gokce Attorney Partnership. While all efforts have been made to ensure the accuracy of the content, Gokce Attorney Partnership does not guarantee such accuracy and cannot be held liable for any errors in or reliance upon this information. The Resolution was created for clients of Gokce Attorney Partnership and the possibility of circulation beyond the firm's clientele should not be construed as advertisement.

For further information please contact us at contact@gokce.av.tr