
Thailand's Digital Asset Tax

February 2022

Thailand's Revenue Department has finally released its guideline manual about paying personal income tax on cryptocurrency and digital tokens. The authority, it is believed, released the manual to cope with the rapid uptick in digital asset investments. This article discusses key points of the manual, particularly how the Revenue Department will treat income from digital assets.

Current Tax Regime

In 2018, the Revenue Department added Section 40(4)(h) and (i) to the Revenue Code targeting income from digital assets. The new law regulates profit sharing, fruits from digital tokens, and capital gains from transfers of cryptocurrency and digital tokens. The income is first subject to 15% withholding tax, and then earners will have to include that income in their annual personal income tax ("PIT") or corporate income tax ("CIT") calculation, filings, and tax payments.

However, implementation of the new law remained unclear, e.g., who is required to deduct withholding tax, and on what base, etc. Value added tax (VAT) implications were also unaddressed.

The Revenue Department, in collaboration with all stakeholders, including Securities and Exchange Commission ("SEC"), Thai Fintech Association, etc., concluded the following three moves going forward:

1. Clarify

Under the current tax regime, the Revenue Department:

- (a) Classifies type of income;
- (b) Determines cost calculation method according to the generally accepted accounting standards, i.e. FIFO, and moving average costs.
- (c) Appraises the digital asset's value on the acquisition date or average value.

2. Relax

TRD will consider:

- (a) Enacting a new law to allow setoff of losses against profits incurred in the same year.
- (b) Enforcing, on a limited basis, the 15% withholding tax requirement for transactions executed via SEC supervised exchange methods, as the Revenue Department's basis for withholding tax is incomplete, i.e. payer of income can be unknown, net income not determinable, etc.
- (c) Enacting a law to exempt digital assets transactions from VAT, for their service element.

3. Outlook

The Revenue Department will study the feasibility of obligating the exchange operators to deduct proper withholding tax. The authority will also explore introducing a new indirect tax regime, e.g., financial transaction tax, on digital asset transactions.

Revenue Department guidelines on how to treat digital asset income for PIT purposes are as

Income	Type of Income ¹	Tax Point	Calculation of Costs	Deductions	Tax Base ³
1. Sale/Exchange	40(4)(i) (Capital gain)	Sell/Exchange	FIFO/Moving Average Costs	Losses/ PIT Allowances	Net Gain
2. Cryptocurrency Mining	40(8) (Other income)	Sell/Exchange	FIFO/Moving Average Costs	Mining Costs/ PIT Expenses/ Allowances	Net Taxable Income
3. Cryptocurrency in lieu of salary/wages	40(1)/40(2) (Salary/ Service Fee)	Acquisition date	Value/average ² value on the acquisition date	PIT Expenses/ Allowances	Net Taxable Income
4. Gift/Reward	40(8) (Other income)	Acquisition date	Value/average ² value on the acquisition date	PIT expenses/ allowances	Net Taxable Income
5. Benefits from profits sharing/holding	40(4)(h) (Profits shares)	Acquisition date	Value/average ² value on the acquisition date	PIT allowances	Gross receipt

Follows:

1. Revenue Code
2. As announced by SEC.
3. Individuals include the taxable income with other income and pay PIT according to progressive rates.

Author's Note:

i This is a major development from the Revenue Department, as both individual and corporate taxpayers have been in a twilight over this issue, e.g. responsibility and base for withholding tax, etc. The manual is right on time for the year 2021 PIT filing, the deadline for which at the end of March 2022.

Revenue Department auditors should also, for now, stop challenging whether income from a digital asset business is subject to VAT.

Despite the promised improvements that are ahead, one thing is certain- the Revenue Department put an end to most investors' hopes that gains from crypto-trades will be free from PIT, as is income from stock trades on the Stock Exchange of Thailand. PIT will be imposed on crypto-trades even where gains are made from SEC-approved platforms or authorized digital asset exchangers/brokers.

The author will continue to monitor developments about digital asset tax, e.g. financial transaction tax, etc. and will provide updates to readers.

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