Crowe

Cryptocurrency: Tax is not Virtual

There are only two things certain in life i.e. death and taxes, but can cryptocurrency escape taxes?

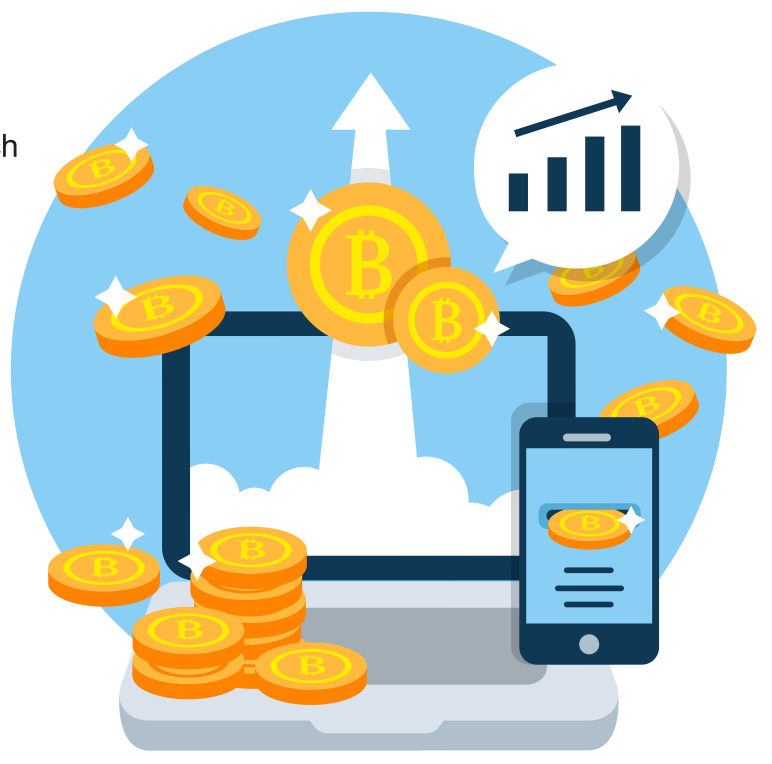
With the increase in demand for digital currencies that has spawned more new cryptocurrencies, the market capitalisation of digital currency has also seen an increase. How to tax a decentralised currency powered by blockchain technology is the question on every government regulator's mind.

Let's examine what exactly are cryptocurrencies and what are its potential effect on the taxation industry.

THE RISE OF DIGITAL CURRENCY

After the financial crisis highlighted the oversight by the central banks and financial institutions which lead to losses in monetary reserves, people start looking for a more secure replacement to traditional fractional reserve banking.

On **3 January 2009**, Bitcoin, the very first decentralised digital currency utilising the blockchain was launched.



What is Bitcoin?

Bitcoin is a decentralised digital currency where Bitcoins are registered with a Bitcoin address. **Bitcoin has the characteristic of a Fiat currency** which means that it is not backed by a physical commodity like gold or government guarantees. The thing that gives a fiat currency value is its scarcity, guarantee of value from the issuing state and the laws of supply and demand.

What can Bitcoin be used for?

Bitcoin can be spent just like any **conventional currency** at any merchants that accept it. It can also be sold to people who wish to purchase Bitcoin for whatever purpose.

Is Cryptocurrency The Next Tax Frontier?

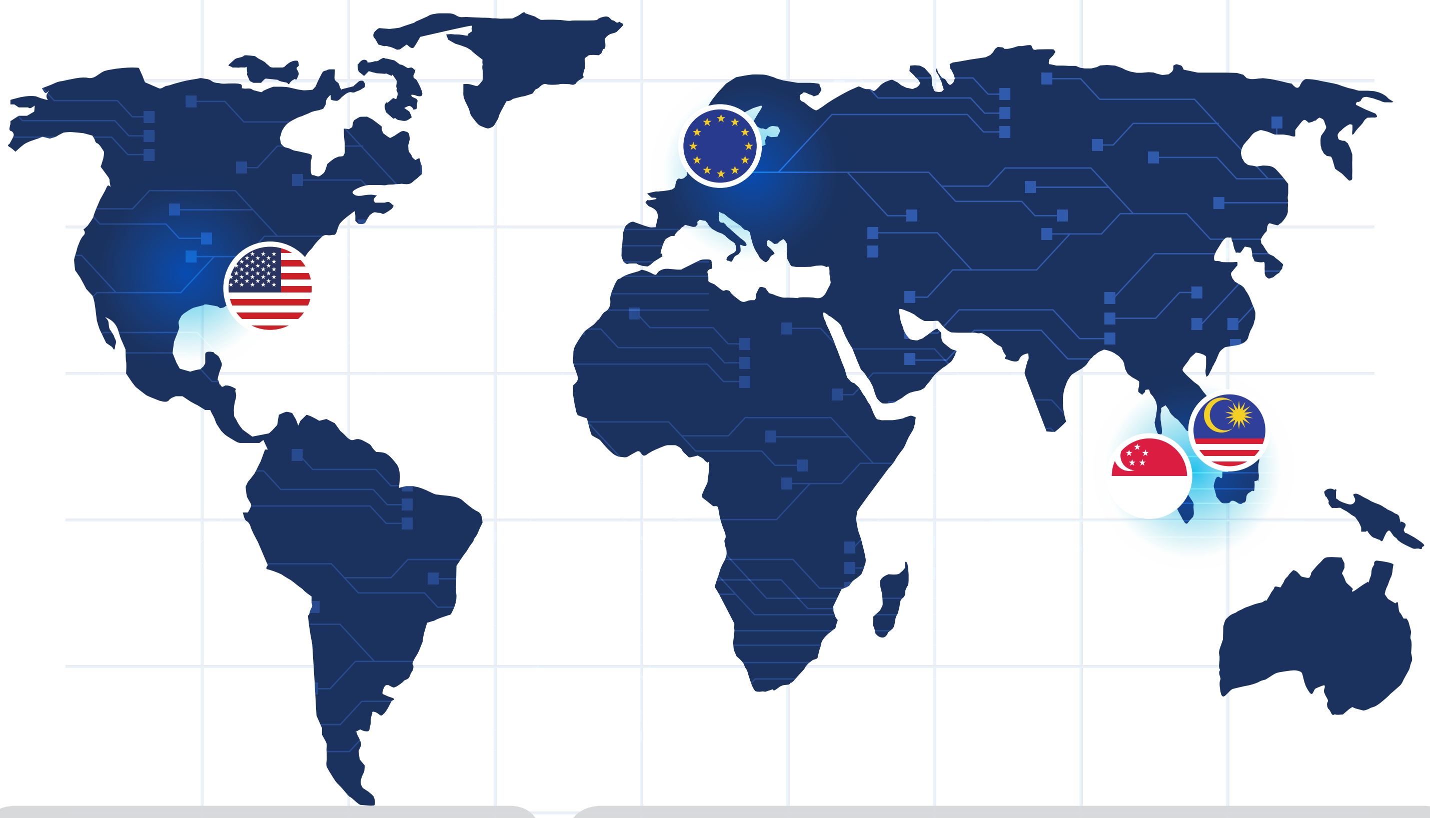
Different jurisdictions across the world have taken a different approach in respect of the taxation of cryptocurrency. We will examine a few of the approaches below:

Europe

In Europe, there is no consensus on whether Bitcoin is a currency. However, the European Court of Justice has held that Bitcoin exchanges should be exempted from **Value Added Tax (VAT)** on the basis that the only purpose of Bitcoin is as a means of payment, the court concluded that the 'currency' exemption in Skatteverket v David Hedqvist Case C-264/14 should apply.

Singapore

In Singapore, the Inland Revenue Authority of Singapore has held that businesses that **buy and sell virtual currencies** in the ordinary course of their business will be taxed on the profits



United States

The United States Inland Revenue Service classifies virtual currency as property for United States Federal tax purposes. Therefore, **capital gains taxes are applicable for gains** on the value of virtual currency in the United States.

Malaysia

On 27 February 2018, Bank Negara issued a policy document on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) of Digital Currencies. In the policy document, Bank Negara reiterates its **stance that digital currencies are not legal tender in Malaysia**. The policy paper sets out new reporting requirements for a person who provides cryptocurrency exchange services such as the exchange digital currency for money or vice versa regardless of whether they have a physical presence in Malaysia.

So then, is Cryptocurrency Subjected to Malaysian Income Tax?

To date, the Inland Revenue Board Malaysia (IRBM) has yet to issue definitive guidelines on how to subject the cryptocurrency transactions to tax.

Though, in the current circumstances, the trading of cryptocurrency may be subjected to tax.

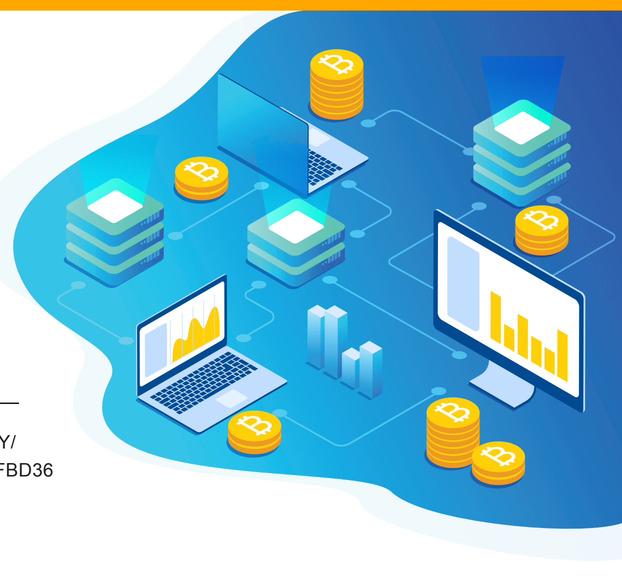
So what does that mean?

If the taxpayer is held to be engaging in an adventure in the nature of a trade, all expenses wholly and exclusively incurred in earning that income will be deductible under Section 33(1) of the ITA provided that they are not specifically disallowed under Section 39 of the ITA.

Though, it is difficult to draw the line between capital versus revenue in an actual situation where a person may initially purchase cyrptocurrency for investment purposes but subsequently uses it to settle debts.

So WHAT'S NEXT?

We are seeing a rise in conversation surrounding cryptocurrency that has regulators debating about the legality and taxation of this new asset class. It is clear that the tax laws have to play catch up or potentially lose out on a digital gold mine of tax revenue.



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