

Guide to Thai Personal Income Tax on Cryptocurrency and Digital Tokens

by N-Able Group

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Background

In 2018, the Thai government announced a law that stated, “**gains derived from transferring cryptocurrency and digital tokens are considered taxable income**”. However, this law was vague, and there were no sub-laws or other guidelines to further explain it. The Thai Revenue Department also did not have any mechanisms to monitor taxpayers who derived this type of taxable income and force them to pay tax. Therefore, it could be said that such a law did not apply in practice, until the tax year 2021.

The Guideline

Since early 2022, the Thai Revenue Department has been focusing more on collecting the personal income tax on income from cryptocurrency and digital tokens. They have spoken and made announcements in public many times about this issue. They also published a guideline on the personal income tax implications of income received from cryptocurrency and digital tokens (referred to as the “**Guideline**”). This Guideline is a preliminary document for filing the year-end Thai personal income tax for the tax year 2021. Moreover, it may also be subsequently used as the guideline for the upcoming tax years, unless there are other publications providing updates or amendments to this Guideline. The Guideline covers various topics, such as classifying income, the method for calculating the costs for tax computation purposes, measuring the value of the cryptocurrency and digital tokens, etc.

According to the Guideline, benefits or gains received from the following cases are considered taxable income under the Thai tax law, subject to Thai personal income tax:

1. Selling, transferring, or exchanging cryptocurrency or digital tokens,
2. Mining cryptocurrency,
3. Earning benefits or compensation from holding cryptocurrency or digital tokens,
4. Receiving cryptocurrency as a salary or wage, and
5. Receiving cryptocurrency or digital tokens as a gift or prize.

This article will discuss the first three of those cases as follows.

1. Selling, transferring, or exchanging cryptocurrency or digital tokens

- A gain received from the sale, transfer, or exchange of cryptocurrency or digital tokens shall be considered taxable income under Section 40 (4) (i) of the Thai Revenue Code. That gain shall be taxed once it is derived, even if the recipient does not remit money out of his trading platform's account.
- Costs shall be calculated using the following methods, and **based on the type of coin** (if there are several types of cryptocurrency or digital tokens, the calculation of costs for each type shall be made separately):
 - First-In First-Out method

Under this method, the cryptocurrency or digital tokens that were purchased first will be sold first.
 - Moving Average Cost method

Under this method, the cost of each type of cryptocurrency or digital tokens shall be calculated by averaging the cost of that type of cryptocurrency or digital tokens at the beginning of the year and the cost when purchased during the year. This calculation must be made at the time of every purchase.
- An income earner can select either method of cost calculation, but such selected method must be applied throughout the year, whereafter the method can be changed in the following year.
- Costs shall include the purchasing price and any expenses involved with acquiring cryptocurrency or digital tokens, such as acquisition fees or transfer fees, etc.
- The valuation of both the income and costs of cryptocurrency or digital tokens shall be based on the value at the time of acquisition or the average price on the acquisition date,

which is a reliable reference price, such as the price announced by the Exchange prepared according to the regulations of the Securities and Exchange Commission.

- Losses arising from one type of cryptocurrency or digital tokens in one calendar year can be deducted against profits from other types of cryptocurrency or digital tokens in that year. However, this **ONLY** applies to the trading transactions made through the digital asset operators that are regulated by the Securities and Exchange Commission, such as online trading platforms registered in Thailand (for example, Bitkub). **Therefore, this implies that the losses arising from trading cryptocurrency or digital tokens outside of Thailand (or through the trading platforms registered outside of Thailand, such as Binance) CANNOT be deducted against profits for the Thai personal income tax calculation purpose of taxpayers.**
- Persons who derived taxable income from transferring cryptocurrency or digital tokens, where the transaction was carried out through the digital asset operators that are regulated by the Securities and Exchange Commission, are **required to prepare accounts for the profits and losses incurred from those transfers. They are also required to maintain those accounts and supporting documents for those accounts, for the purpose of tax audits, with the details as required by the law.** Therefore, complying with this rule could be a significant burden for such persons and very challenging in practice.
- The value of cryptocurrency or digital tokens remaining at the end of the year are not considered taxable income. That value shall be carried forward as a cost to the following year.
- In the case of exchanging cryptocurrency or digital tokens between two parties, it shall be considered that those parties sold those cryptocurrency or digital tokens, whereby the sold assets shall be valued as fiat money first, and the value of the received cryptocurrency or digital tokens shall be considered as the selling price. If there was a gain from that exchange, that gain shall be considered taxable income of the party who derived it.

2. Mining cryptocurrency

- Obtaining cryptocurrency from mining is not considered taxable income.
- Whenever there is a sell, transfer, or exchange of the cryptocurrency that was derived from mining, the gain received from that transaction shall be considered taxable income under Section 40 (8) of the Thai Revenue Code.
- This gain is calculated by subtracting the expenses that were actually and reasonably incurred from the mining (such as computer maintenance costs, employee wages, commission fee, utilities expenses, and depreciation of computers, etc.) from the value received as a result of the transaction by, whereby **the taxpayer shall maintain the supporting documents and prepare accounts for those expenses**. Therefore, it could be a challenge and significant burden on the taxpayers to comply with this rule.
- Costs shall be calculated using the first-in first-out method or moving average cost method as mentioned above, based on the type of coin (if there are multiple types of cryptocurrency or digital tokens, the calculation of the costs of each type shall be made separately).
- An income earner can select either method of cost calculation, but the selected method must be applied throughout the year, after which the method can be changed in the following year.
- The valuation of both the income and costs of cryptocurrency or digital tokens shall be based on the value at the time of acquisition or the average price on the acquisition date, which must be a reliable reference price, such as the price announced by the Exchange prepared according to the regulations of the Securities and Exchange Commission.

3. Earning benefits or compensation from holding cryptocurrency or digital tokens

- This may apply to the cases of yield farming or staking.

- For digital tokens, this is considered taxable income under Section 40 (4) (h) of the Thai Revenue Code. For cryptocurrency, this is considered taxable income under Section 40 (8) of the Thai Revenue Code.
- The valuation of both the income and costs of cryptocurrency or digital tokens shall be based on the value at the time of acquisition or the average price on the acquisition date, which must be a reliable reference price, such as the price announced by the Exchange prepared according to the regulations of the Securities and Exchange Commission. Once either of these methods is selected, it shall be applied throughout the year.
- When receiving cryptocurrency or digital tokens, if the tax has already been paid on the received value, that tax can be deducted as a cost for calculating the tax at the time of the disposal of those cryptocurrency or digital tokens.

Examples of income tax calculations for each case mentioned above are provided in the Guideline, which is currently only available in the Thai language.

Rules regarding sources of income from trading cryptocurrency

Notwithstanding the rules under the Guideline mentioned above, the Thai Revenue Department determines the source of the income from trading cryptocurrency based on the location where that trading occurred, or the location where the trading platform is registered. If the trading occurs outside of Thailand or through a trading platform registered outside of Thailand (such as Binance), the gain received from that trading shall be considered foreign-sourced income. The foreign-sourced income shall be taxable in Thailand ONLY IF **BOTH** of the two conditions below are met:

- (1) The income recipient stayed in Thailand for 180 days or more in the calendar year that he received that income, and
- (2) The income recipient received that income in Thailand OR received it outside of Thailand but brought or remitted it into Thailand in the same calendar year that he derived it.

Therefore, by applying this rule, if you traded cryptocurrency through any trading platforms registered outside of Thailand (such as Binance), and you received a gain from that trade, if you retain that gain in your platform's account, or you transferred that gain into your bank account in Thailand in the calendar year after the year that you received it, such a gain will be tax FREE in Thailand.

Withholding tax implications of the gains derived from exchanging cryptocurrency and digital tokens

Under Thai tax law, the payer (whether an individual or a juristic person, such as a company) of the gain from the exchange of cryptocurrency or digital tokens (i.e. the buyer) is required to deduct withholding tax at 15% of that gain (not the total selling price) and remit this withheld tax to the Thai Revenue Department. This withholding tax is NOT and CANNOT be treated as a final tax of the income recipient. However, the recipient can treat that withholding tax as a tax credit against their actual income tax payable.

This withholding tax rule does not apply if the payer of that gain is a company registered abroad and not conducting business in Thailand, or an individual who does not reside in Thailand.

Nevertheless, even if the payer of that gain is a Thai person (whether an individual or a juristic person, such as a company), that withholding tax hardly applies in practice, due to the following reasons:

- (1) Most of the trading transactions of cryptocurrency are made through the trading platforms (such as Bitkub), instead of the seller dealing with the buyer directly. Therefore, the payer of that gain (i.e. the buyer) may not be able to identify who the recipient is at the time that the trading transaction occurs. Also, those trading platforms are NOT considered the payer of that gain. Therefore, they DO NOT have a duty under the law to apply that withholding tax rule;
- (2) Even if the recipient can be identified, the costs of that exchanged cryptocurrency or digital tokens are unknown, unless the recipient (i.e. the seller) informed the payer (i.e.

the buyer) of those costs specifically. Please note that the withholding tax shall be deducted on the gain (i.e. selling price – costs) derived from the exchange transaction, not from the total selling price; and

- (3) Under the current laws, the Thai Revenue Department does not have any access to the information about the trading transactions that occur through the trading platforms, in terms of who the sellers and buyers are, the trading values, etc. The trading platforms are also NOT required to share such information with the authorities. Yet, this situation could be changed in the future if the relevant laws are amended.

Therefore, with respect to the withholding tax on the gains derived from exchanging cryptocurrency and digital tokens, due to the various issues as mentioned above and the limited resources and capacity of the Thai Revenue Department to enforce such a withholding tax rule, we can possibly say that this withholding tax DOES NOT apply in practice currently. Yet, this could be changed in the future. Who knows, perhaps one day in the future, the Thai authorities may issue a law that states that the trading platform shall have a duty to deduct and remit this withholding tax?

Challenges for the Thai tax authorities with regard to collecting tax on income from cryptocurrency

It is a challenge for the Thai tax authorities regarding how they can know if someone derived gains from trading cryptocurrency, even if that trade was made through a trading platform in Thailand. So far, we are not aware of any mechanisms for the authorities to track a person's income that he received from trading cryptocurrency (since as we mentioned earlier, the trading platforms do not provide the trading information of taxpayers to the tax authorities), unless such person received that income from the payer in Thailand who deducted the 15% withholding tax on the payment, or they received that income into a Thai bank account. However, as mentioned above, that 15% withholding tax has not been applied in practice. Yet, this could be changed in the near future.

Last but not least, the knowledge about cryptocurrency (and other borderless transactions) of many Thai tax officers remains in doubt. It would not be a surprise for us if someone stated that most of the Thai tax officers, who have a duty to audit taxpayers, still did not know what cryptocurrency is. Yet, this could also change in the near future.

Conclusions

Recently, the Thai Revenue Department has been focusing more on collecting tax on personal income from cryptocurrency. Although currently, that authority has a limited capacity and resources for this purpose, we however expect to see the adoption of additional legal mechanisms to collect the tax more efficiently in the near future. For instance, they may issue a law to force the trading platforms in Thailand to share the trading information of taxpayers with them.

Finally, complying with the tax laws concerning income from cryptocurrency can be a challenge and a burden for taxpayers, especially where they are required to maintain trading data and prepare accounts for the trading transactions.

We, N-Able Group, are real experts in tax advisory and compliance, and the planning for any issues that concern CRYPTOCURRENCY. If you wish for us to assist in finding ways to reduce your tax on your cryptocurrency income, while remaining in compliance with the Thai tax laws in respect to the concerned areas, please do not hesitate to contact us.

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