

MOF publishes draft decree on tax treatment of virtual currencies and tokens

Draft guidance includes detailed description of virtual currencies and related income tax consequences.

The German Ministry of Finance (MOF) published a draft decree on 17 June 2021, in which the tax authorities provide a detailed description of various virtual currencies and guidance on the income tax treatment of transactions using virtual currencies and tokens.

Virtual currency (or virtual money) is a type of unregulated digital currency that is available only in electronic form and that is used and accepted as means of payment among certain parties, typically members of a specific virtual community or dedicated network. A virtual token can be described as a digital representation of value that is digitally tradable and that functions as a medium of exchange, unit of account, or storage of value.

The first part of the draft decree provides an overview and explanation of certain key elements of the virtual currency environment, e.g., tokens, blockchains, wallets, initial coin offerings, staking, forks, lending, and airdrops.

The second part of the draft decree provides guidance on the treatment of virtual currency and related transactions for income tax purposes. In particular, the draft decree describes in what scenarios income derived from transactions with virtual assets would qualify as income from a trade or business, employment income, capital income, or other income, respectively. The categorization of the income depends on whether the virtual assets are being held as private assets or (deemed) business assets. The income category is relevant not only to the question of whether the income would be subject to tax in Germany, but also to the questions of how the income would be determined/calculated (on an annual basis) for income tax purposes and at what rate the income would be taxed.

The draft decree provides some initial insights on how the tax authorities consider transactions involving virtual currencies and tokens. The draft decree is still being discussed with trade associations, and coordination with the state tax authorities will be necessary before a final decree is issued. In the meantime, taxpayers that possess virtual currencies and tokens should carefully review the draft guidance and consider the potential tax treatment of their transactions in light of the draft decree.

Your Contacts

Andreas Maywald

Client Service Executive | ICE - German Tax Desk

anmaywald@deloitte.com

Tel.: +1 212 436 7487

Hannah Hildebrand

Senior Manager

hahildebrand@deloitte.com

Tel.: +1 212 436 7432

Diese Mandanteninformation enthält ausschließlich allgemeine Informationen, die nicht geeignet sind, den besonderen Umständen eines Einzelfalles gerecht zu werden. Sie hat nicht den Sinn, Grundlage für wirtschaftliche oder sonstige Entscheidungen jedweder Art zu sein. Sie stellt keine Beratung, Auskunft oder ein rechtsverbindliches Angebot dar und ist auch nicht geeignet, eine persönliche Beratung zu ersetzen. Sollte jemand Entscheidungen jedweder Art auf Inhalte dieser Mandanteninformation oder Teile davon stützen, handelt dieser ausschließlich auf eigenes Risiko. Deloitte GmbH übernimmt keinerlei Garantie oder Gewährleistung noch haftet sie in irgendeiner anderen Weise für den Inhalt dieser Mandanteninformation. Aus diesem Grunde empfehlen wir stets, eine persönliche Beratung einzuholen.

This client information exclusively contains general information not suitable for addressing the particular circumstances of any individual case. Its purpose is not to be used as a basis for commercial decisions or decisions of any other kind. This client information does neither constitute any advice nor any legally binding information or offer and shall not be deemed suitable for substituting personal advice under any circumstances. Should you base decisions of any kind on the contents of this client information or extracts therefrom, you act solely at your own risk. Deloitte GmbH will not assume any guarantee nor warranty and will not be liable in any other form for the content of this client information. Therefore, we always recommend to obtain personal advice.