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PREMIER TAX EVENT OF THE YEAR
NATIONAL TAX CONFERENCE
2018

16 & 17 JULY 2018 | MONDAY & TUESDAY
KUALA LUMPUR CONVENTION CENTRE

DAY 1: 16 JULY 2018

Cryptocurrencies in the digital economy – Tax issues

Speaker: Anil Kumar Puri

Partner

Ernst & Young Tax Consultants Sdn Bhd

Agenda

- ▶ **Introduction to cryptocurrency**

- ▶ What is cryptocurrency?
- ▶ What is blockchain?
- ▶ Common terms
- ▶ Some facts and figures
- ▶ Cryptocurrency 'life cycle'

- ▶ **Taxation of cryptocurrency**

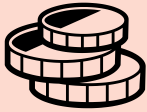
- ▶ Tax treatment over the cryptocurrency 'life cycle'
- ▶ Characterization
- ▶ General tax rules
- ▶ Specific tax rules
- ▶ Malaysian position

- ▶ **Some non-tax considerations**

Introduction

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What is cryptocurrency?



A means of payment that is **intangible** and exists purely in **electronic form**. The most well-known cryptocurrency is **bitcoin**, created pseudonymously by Satoshi Nakamoto.

Accounted for and transferred using computers

Works through distributed ledger technology, usually a **blockchain**, that serves as a public financial transaction database

Decentralized control; eliminates intermediaries, steps and costs of traditional payment methods; makes fund flows simpler and more transparent

Introduction



What is blockchain?

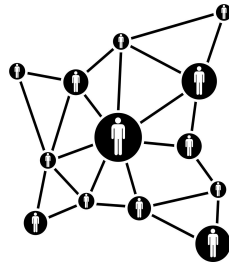
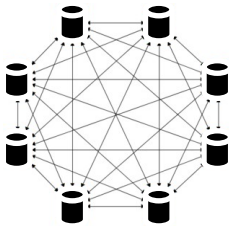
Structural
features

Technology for
enabling **shared**
databases...

...which support
multiple
writers...

...whose entries are
verified through
consensus
validation...

...and form one
unified
“transaction” log



Common
characteristics

Decentralised

Multiple writers

Trust through
design and protocol

Immutable

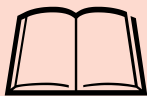
Multiple ownership

“Real-time”
synchronicity

Consensus-based
authentication

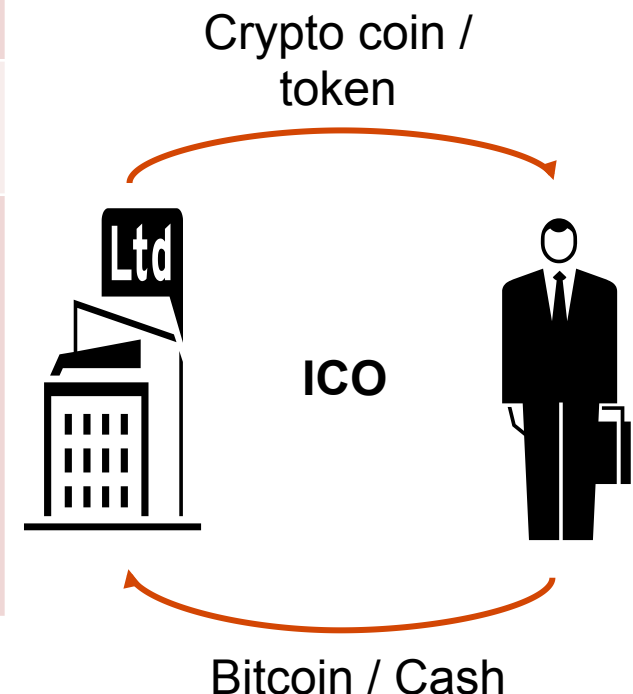
Chronological
chain of activity

Introduction

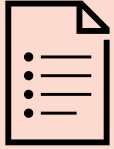


Common terms

Term	Description
Miner	A person who digitally 'mines' a block by solving complex mathematical problems and receives cryptocurrency as a reward
Digital wallet	To store digital currencies (i.e. cryptocurrencies), akin to how we use wallets to store paper money
Initial Coin Offering (ICO)	ICOs are used to raise funds, similar to the way companies raise funds with Initial Public Offerings (IPOs). However, in an ICO, cryptocurrency is issued to investors instead of shares. ICOs may also be referred to as a Token Generation Event (TGE), Initial Token Offerings (ITO), Token Pre-sale, or Token Crowd-sale.



Introduction



Some facts and figures

Leading cryptocurrencies

Bitcoin

Market value:
US\$115b

Peak price : US\$ 20,089 per coin
Current price: US\$ 6,768

Ethereum

Market value:
US\$48b

Litecoin

Market value:
US\$4b

Ripple

Market value:
US\$18b

Iota

Market value:
US\$2b

Source: Coinmarketcap.com. as of 9 July 2018

Some numbers



\$263b total market cap



1624 cryptocurrencies
currently exist in the world



208 exchanges that deal in
cryptocurrency



\$13b total daily trading
volume



29.11% of total trading
volume accounted for by
bitcoin

Source: Coinmarketcap.com as of 9 July 2018

Introduction



Cryptocurrency 'life cycle'

Acquisition

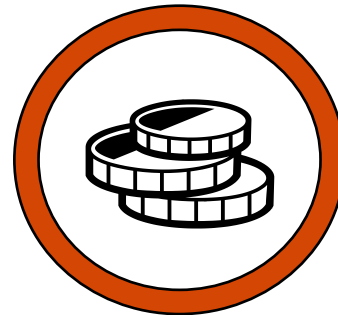
Mining of
cryptocurrency



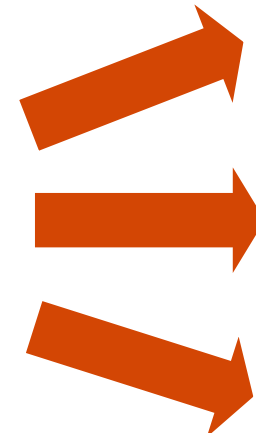
Purchase of
cryptocurrency directly
from an individual or
via an exchange



Purchase / subscription
in an ICO



Cryptocurrency



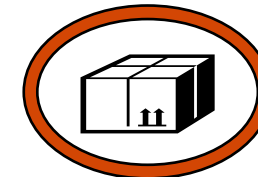
Utilisation / Disposal



Sale for cash



Exchange for other
cryptocurrency



Purchase of goods

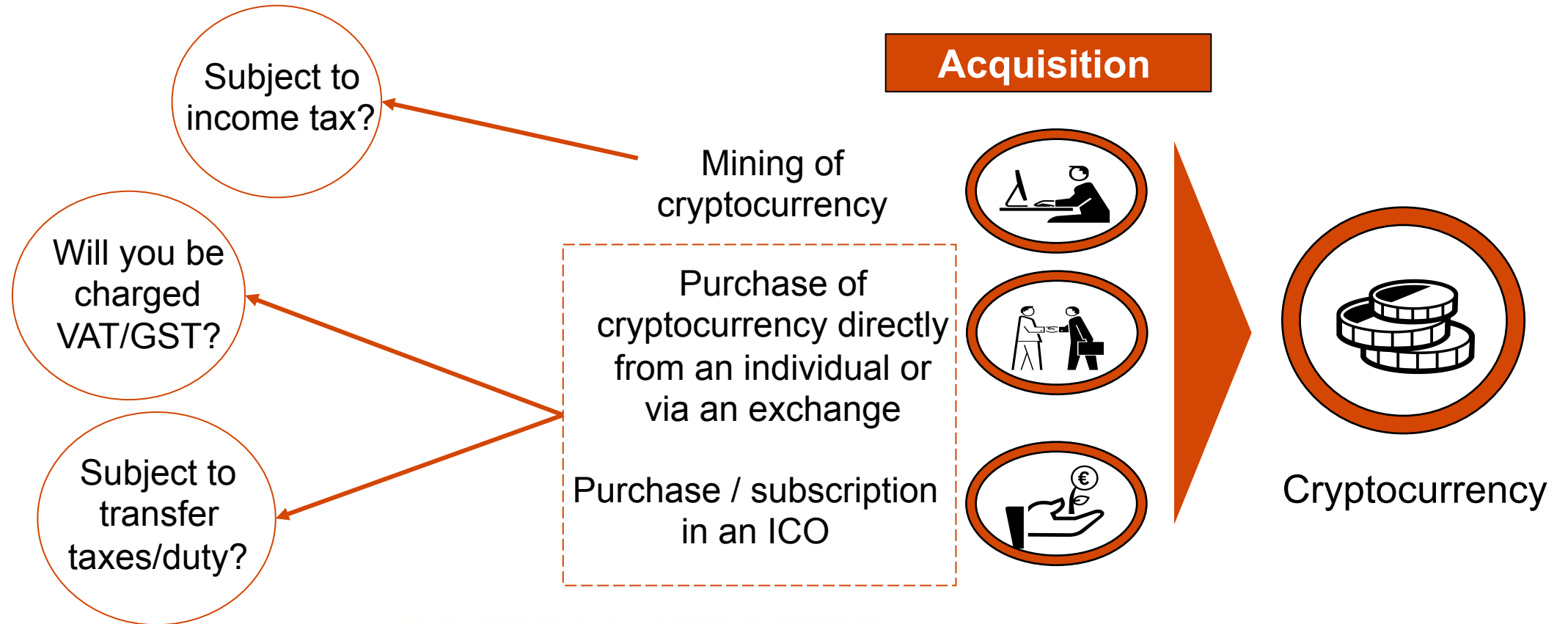
Taxation

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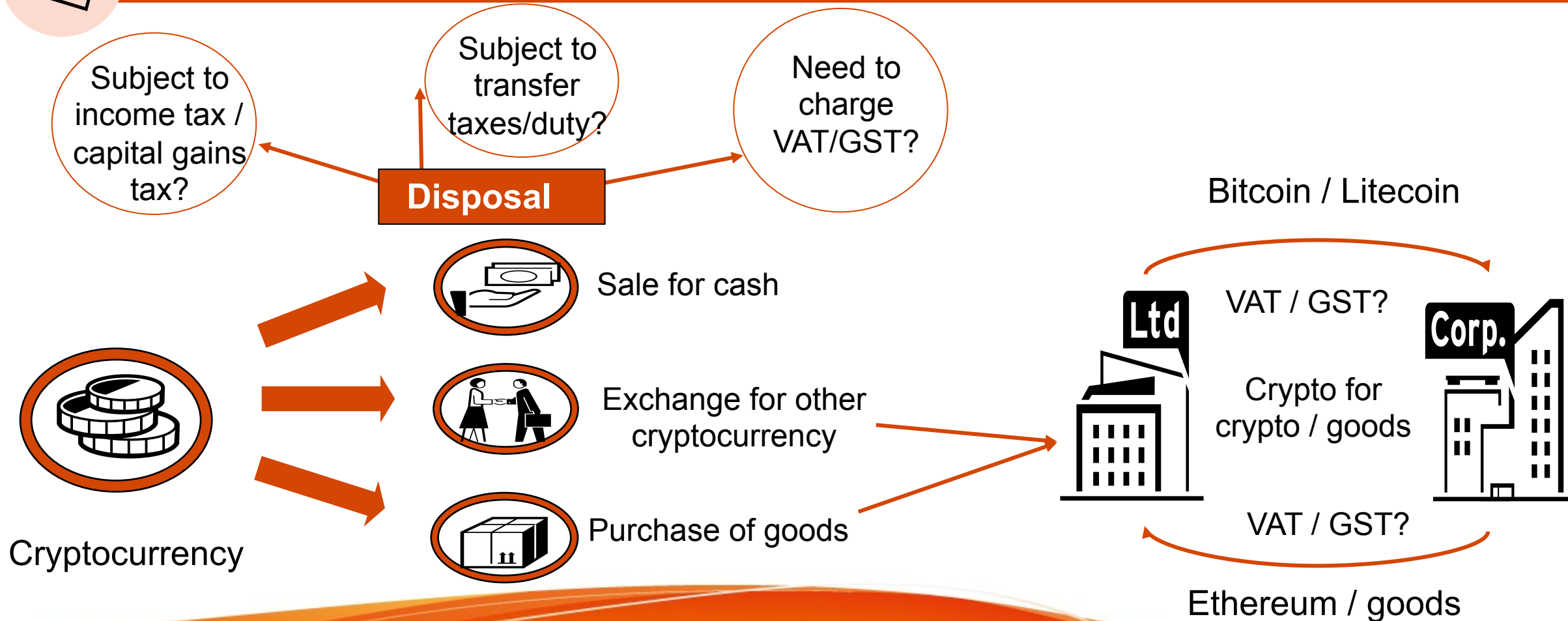
Tax treatment over the cryptocurrency 'life cycle'



Taxation



Tax treatment over the cryptocurrency 'life cycle'



Taxation



Characterization

How is cryptocurrency characterized for tax purposes? Currency? Property? Something else?

Americas

Canada – “not legal tender” / property

United States (USA) - property

Europe

Germany – private money / “virtual currency”

Poland – property rights

United Kingdom - property

Asia Pacific

Australia - property

Japan – “virtual currency” (not legal tender)

Malaysia – No formal tax guidance, BNM position: not legal tender

New Zealand - property

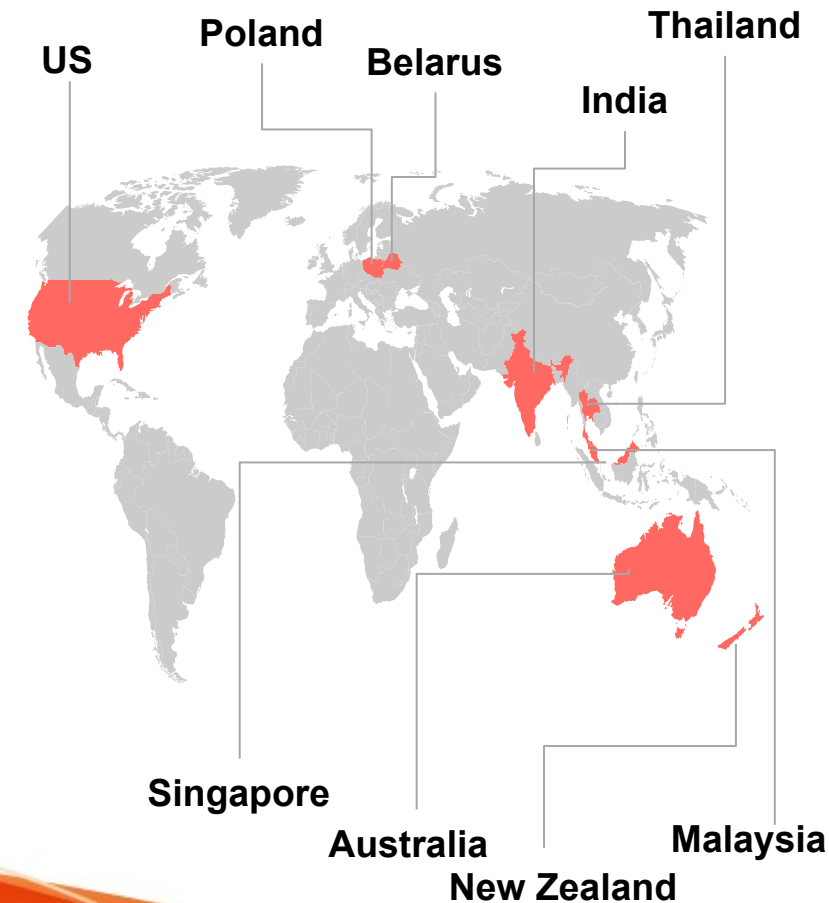
Singapore – services for GST purposes

Taxation



General rules

- ▶ Some countries have issued guidance specifically on taxation of bitcoin; similar considerations apply to other cryptocurrencies.
- ▶ Receipt of cryptocurrency as payment for goods or services is treated no differently to the receipt of cash as consideration.
- ▶ Disposal of cryptocurrency is usually subject to general income / capital gains tax rules, depending on circumstances of taxpayer.
- ▶ Specifically GST / VAT exempted where countries / courts have addressed cryptocurrency taxation
- ▶ Limited specific guidance on whether successful mining of coins or an ICO are taxable events



Taxation



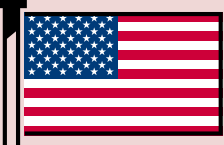



General rules – selected countries

Country	Income / Capital gains tax	GST / VAT
Australia	<ul style="list-style-type: none">▶ Disposal of cryptocurrency held as investment subject to CGT▶ Proceeds from the sale of cryptocurrency in the ordinary course of business are ordinary income.▶ “Personal use asset” considerations for individuals	GST exempt from 1 July 2017
Thailand	<ul style="list-style-type: none">▶ Gains are generally subject to income tax.▶ Such income of a foreign person is subject to 15% WHT.	7% VAT (exempted for individuals)
New Zealand	<ul style="list-style-type: none">▶ Where it is acquired “for the dominant purpose of disposal”, gains on disposal would be subject to income tax.	No specific guidance
USA	<ul style="list-style-type: none">▶ Gains on disposals of “capital assets” (generally investment property) would be treated as capital gains. If not a “capital asset”, treatment applicable to ordinary gains / losses apply	Not applicable

Taxation



Specific rules

Mining and ICO	Unique tax rules
 Miners in US are taxed upon successful mining of cryptocurrency.	 IRAS takes the view that cryptocurrency is a 'service' for GST purposes
 Thailand has proposed to tax companies on financing raised via ICOs.	 India has proposed to impose consumption tax of 18% on cryptocurrency trades - potentially retroactively.
	 Belarus has exempted all cryptocurrency gains from tax until 1 January 2023.
	 Poland imposed a 1% levy tax on every cryptocurrency transaction (repealed).

Taxation

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Malaysian position

Income tax

- ▶ No specific guidance, therefore general tax rules should apply
- ▶ Taxability of sale: should we apply the badges of trade?
 - ▶ Trading interest in same or similar field
 - ▶ **Length of ownership**
 - ▶ **Frequency of transactions**
 - ▶ Modification of assets
 - ▶ **Motive**
 - ▶ Circumstances of disposal
 - ▶ Mode of financing



Indirect tax

- ▶ Pursuant to the GST Exempt Supply Order 2014, “*The exchange of currency or the transfer of ownership of any derivate relating to the exchange of currency...*” is treated as an exempt supply. But is cryptocurrency “currency”?
- ▶ SST treatment?



Mining?

ICO?

IRB: Cryptocurrency not regulated but traders still subject to Malaysian income tax law



The Inland Revenue Board's (IRB) investigation into London based cryptocurrency

Taxman freezes account of cryptocurrency exchange Luno

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Cryptocurrency in Malaysia, like most other countries, straddles a gray area between outright prohibition and inferred acceptance. — Reuters pic

KUALA LUMPUR, Jan 13 — The Inland Revenue Board (IRB) here has suspended the bank account of Luno, a London-based cryptocurrency exchange, pending a tax

Some non-tax considerations



Beyond tax

Accounting

- ▶ How should cryptocurrency be reflected in the financial statements of a miner, trader, investor etc?



Regulators

- ▶ Is regulatory approval required for an ICO?
- ▶ Should funds (e.g. pension funds) be allowed to invest in cryptocurrency?



Cryptos and ICOs

Banking system

- ▶ How will cryptocurrency impact Central Bank policies?
- ▶ Applicability of exchange control rules



Legal

- ▶ Can you buy cryptocurrency and use it to pay for goods or services?
 - ▶ India and China have reportedly “banned” cryptocurrency.



Bitcoin price plunges after cryptocurrency exchange is hacked

Security fears rise as South Korea's Coinrail loses about £28m of virtual currency



As trading bitcoin have been hit by a series of thefts in recent months. Photo: iStockphoto

MARKETS

PRE-MKT | US | EU | ASIA

Japanese cryptocurrency exchange loses more than \$500 million to hackers

- Japanese cryptocurrency exchange Coincheck says Friday that around 523 million of the exchange's NEM coins were sent to another account around 3 a.m. local time.
- The stolen coins were worth about 58 billion yen at the time of detection, or roughly \$534.8 million, according to the exchange.
- Coincheck management says it held the NEM coins in a “hot” wallet, referring to a method of storage that is linked to the internet.