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Federal Ministry of Finance publishes circular on the income taxation of virtual currencies and other tokens

On 10 May 2022, the German Federal Ministry of Finance (MoF) published a circular on the income taxation of virtual currencies and other tokens in coordination with the Supreme Tax Authorities of the German Federal States.

With the circular, the MoF intends to provide practitioners both in the administration and in business as well as individual taxpayers with legally sound and easily applicable guidelines on the income tax treatment of crypto currencies and other tokens.

This is the first time a nationwide and uniform administrative advice on the topic has been made available.

The MoF circular deals with the various situations involving virtual currencies, which are explained technically and classified for income tax law purposes. In addition to the purchase and sale of Bitcoin or Ether, for example, the circular discusses in particular block creation (known as mining in the case of Bitcoin). In addition, the MoF circular deals with

- staking,
- lending,
- hard forks,
- airdrops,
- the special features of utility and security tokens for income tax purposes, and
- tokens as employee income.

One of the most intensively discussed questions in the run-up to the circular was whether transactions such as lending and staking can lead to an extension of the period during which a private sale of the virtual currency in question is taxable as a private disposal under Section 23 of the German Income Tax Act. Consistent with the view of the Federal States, the MoF circular states that the required ten-year holding period between acquisition and disposal does not apply to crypto currencies.

Parliamentary State Secretary Katja Hessel also announced during the publication that a supplementary circular on the cooperation and record-keeping obligations is already in progress.

The principles of the circular are to be applied to all open cases.

Reference:

Federal Ministry of Finance circular dated 10 May 2022, IV C 1 - S 2256/19/10003 :001.

Keywords

Income Tax Act, crypto assets / virtual assets