SOUTH AFRICAN REVENUE SERVICE

DRAFT GUIDE TO THE TAXATION OF CRYPTO ASSETS

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South African Revenue Service

SARS
At Your Service

Draft Guide to the Taxation of Crypto Assets

Preface

This guide provides guidance on some of the income tax and capital gains tax consequences that may arise for persons transacting in or holding crypto assets. The guidance is based on currently available information on crypto assets. Given the constant innovation and development in this technology, the principles considered in this guide are designed to be foundational, rather than overly specific. It is therefore incumbent upon the reader to always consider the detailed characteristics of the particular crypto asset and the particular transaction in question. These characteristics could fundamentally impact the income tax (including capital gains tax) consequences.

This guide does not deal with the treatment of crypto assets under the Value-Added Tax Act 89 of 1991.

This guide is not an "official publication" as defined in section 1 of the Tax Administration Act 28 of 2011 (TA Act) and accordingly does not create a practice generally prevailing under section 5 of that Act. It does not consider the technical and legal detail that is often associated with taxation and should, therefore, not be used as a legal reference.

It is also not a binding general ruling (BGR) under section 89 of the TA Act. Taxpayers requiring an advance tax ruling[1] or a VAT ruling[2] should visit the SARS website at **www.sars.gov.za**[3] for details of the application procedure.

This guide is based on the legislation as at date of issue.

For more information you may –

- visit the **SARS website**;
- contact the SARS National Service Centre –
  - if calling locally, on 0800 00 7277; or
  - if calling from abroad, on +27 11 602 2093 (only between 8am and 4:30pm South African time);
- have a virtual consultation with a SARS consultant by making an appointment via the **SARS website**;
- visit your nearest SARS branch, after making an appointment via the **SARS website**; or
- contact your own tax advisor or tax practitioner.

1 For further commentary, see the *Comprehensive Guide to Advance Tax Rulings*.
2 For further commentary, see the *VAT Rulings Process Reference Guide*.
3 Navigate to Legal Counsel ⇨ Legal Counsel Publications ⇨ Find a Guide and select the category Tax Administration (for the guide relating to advanced tax rulings) **or** Value-Added Tax (VAT) (for the guide relating to VAT rulings.

Comments on this guide may be e-mailed to **policycomments@sars.gov.za**.

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Disclaimer

Operational information contained in this guide is up to date as at date of publication. However, always refer to the **SARS website** for any guidelines specifically issued on such operational matters.

Hyperlinks, and cross-references display as **bold** text to assist our visually impaired readers. For example, **SARS website**, and see **3**.

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Preamble

In this guide, unless the context indicates otherwise –

- **"blockchain"** means a digital, decentralised ledger that keeps a record of all transactions that take place across a peer-to-peer network and that enables the encryption of information (see also **3**);
- **"BTC"** means bitcoin;
- **"CAR Working Group"** means the Crypto Assets Regulatory Working Group, formed in 2018 under the auspices of the Intergovernmental Fintech Working Group;
- **"CGT"** means capital gains tax, being the portion of normal tax attributable to the inclusion in taxable income of a taxable capital gain, determined under the Eighth Schedule, on the disposal of assets;
- **"crypto asset"** means a digital representation of value that is not issued by a central bank, as more fully described in **3**;
- **"definition of 'gross income'"** means the definition of "gross income" in section 1(1) of the Act;
- **"DLT"** means distributed ledger technology, more fully described in **3**;
- **"fiat currency"** or **"fiat"** means a metal coin or paper currency made legal tender by a fiat (decree) of a government;
- **"IFWG"** means the Intergovernmental Fintech Working Group on Crypto Asset Regulation originally established in 2016 by National Treasury, the South African Reserve Bank, the Financial Sector Conduct Authority and the Financial Intelligence Centre and later joined by the National Credit Regulator, SARS and the Competition Commission;
- **"IFWG CAR Position Paper"**[4] means the position paper on crypto assets issued by the Intergovernmental Fintech Working Group on Crypto Asset Regulation on 11 June 2021;
- **"paragraph"** means a paragraph of the Eighth Schedule;
- **"SARB"** means the South African Reserve Bank;
- **"Schedule"** means a Schedule to the Act;
- **"section**" means a section of the Act;
- **"TA Act"** means the Tax Administration Act 28 of 2011;
- **"the Act"** means the Income Tax Act 58 of 1962;
- **"ZAR"** means South African Rand; and

any other word or expression bears the meaning ascribed to it in the Act.

All guides, interpretation notes, and the frequently asked questions referred to in this guide are available on the SARS website at **www.sars.gov.za**. Unless indicated otherwise the latest versions of these publications must be consulted.

[4] **www.ifwg.co.za/Pages/Reports.aspx** "Position Paper on Crypto Assets" under 2021. [Accessed 1 July 2026].

1. Introduction

This guide considers selected provisions of the Act that are particularly relevant to crypto assets. It does not cover all the sections applicable to crypto assets and persons dealing with crypto assets, which, while not specifically referring to crypto assets or persons dealing in them, are nevertheless applicable.

The income tax system in South Africa is residence-based.[5] This means that South African residents are, but for certain exclusions, subject to income tax on their worldwide income. This includes income derived both within and outside South Africa including income and capital gains from crypto assets listed on foreign trade exchanges.

Non-residents are potentially liable for income tax if South Africa is the source of proceeds which are of a revenue nature, or if the disposed asset meets the requirements of paragraph 2(1)(*b*)(i).

This guide focuses on the position of a South African tax resident taxpayer. However, the same principles apply to non-residents if the source- or paragraph 2 requirements are met.

2. Background

The government's focus on crypto assets originated in 2014 with an initial public statement[6] issued by National Treasury, as a joint initiative with the SARB, the Financial Services Board (known as such until its renaming as the Financial Sector Conduct Authority), SARS and the Financial Intelligence Centre. Members of the public were warned about the risks associated with the use of crypto assets and advised to exercise caution.

Also in 2014, the SARB issued the "*Position Paper on Virtual Currencies"*[7] and identified risks associated with crypto assets including money laundering, financing of terrorism, the lack of a legal and regulatory framework, the absence of consumer protection laws, and the inability to enforce the principle of finality and irrevocability, as is required in existing payment systems. The position paper confirmed that only the SARB is allowed to issue legal tender,[8] and that crypto assets are not considered official South African legal tender or money. Therefore, all activities related to the acquisition, trading or use of crypto assets are done at the end users' sole and independent risk, with no recourse to the SARB.

5 For a detailed consideration see Interpretation Note 4 "Resident: Definition in relation to a Natural Person – Physical Presence Test". A person, other than a natural person, for example, a company or a trust, will be a resident if the person is incorporated, established, or formed in South Africa or has its place of effective management in South Africa but it does not include any person who is deemed to be a resident of another country for purposes of the application of a double tax agreement between South Africa and that other country. For a detailed consideration on the meaning of "place of effective management" see Interpretation Note 6 "Resident: Place of Effective Management (Companies)".

6 **www.treasury.gov.za/comm_media/press/2014/2014091801%20-%20User%20Alert%20Virtual%20currencies.pdf** [Accessed 1 July 2026].

7 **www.resbank.co.za/content/dam/sarb/what-we-do/financial-surveillance/general-public/Virtual%20Currencies%20Position%20Paper%20%20Final_02of2014.pdf** [Accessed 1 July 2026].

8 Section 14 of the South African Reserve Bank Act 90 of 1989.

In 2016 the Intergovernmental Fintech Working Group (IFWG) was established by National Treasury, the SARB, the Financial Sector Conduct Authority and the Financial Intelligence Centre. IFWG's purpose is to:

- develop a common understanding among regulators and policymakers in South Africa of financial technology developments as well as the regulatory and policy implications for the financial sector and the economy;
- assist in developing and adopting a coordinated approach to policymaking in respect of financial services emanating from fintech; and
- foster responsible innovation in this field, with an end result of adopting a balanced and responsible approach to such innovation.[9]

The National Credit Regulator and SARS joined IFWG in 2019 and the Competition Commission joined in 2020. The Crypto Asset Regulatory (IFWG CAR) Working Group was formed under IFWG to review South Africa's position on crypto assets.

In 2018 SARS issued a media release[10] clarifying that cryptocurrencies (being the terminology used at the time) are regarded as assets of an intangible nature and not a currency. Further, that taxpayers are required to apply the normal tax rules (including existing case law to determine if an amount received or accrued is of a revenue or capital nature) and declare gains or losses as part of taxable income. Associated expenses may qualify for a deduction. It noted three types of transactions involving crypto assets, namely acquiring a crypto asset through mining, exchanging local currency for a crypto asset or vice versa, and exchanging goods or services for crypto assets.

Following public comment and engagement on the IFWG CAR Consultation paper on Policy Proposal for Crypto Assets[11] (issued in 2019), IFWG, through the CAR Working Group, issued the IFWG CAR Working Group Position Paper in 2020[12] and updated it in June 2021.[13] The paper broadly recommended that crypto assets and crypto asset service providers be brought into the South African regulatory purview in a staged manner.[14]

On 19 October 2022 the Financial Sector Conduct Authority declared a crypto asset to be a financial product under the Financial Advisory and Intermediaries Service Act, 2002.[15] This, broadly speaking, means that persons providing financial services related to crypto assets must be licensed under that Act and are subject to the provisions of that Act. Persons providing services without authorisation face regulatory action by the Financial Sector Conduct Authority.

9 **www.ifwg.co.za/Pages/Reports.aspx** "Position Paper on Crypto Assets" under 2021. [Accessed 1 July 2026].

10 **www.sars.gov.za/media-release/6-april-2018-sarss-stance-on-the-tax-treatment-of-cryptocurrencies/** [Accessed 1 July 2026].

11 **www.ifwg.co.za/Pages/Reports.aspx** "IFWG Consultation Paper on Policy Proposals for Crypto Assets" under 2018. [Accessed 1 July 2026].

12 **www.ifwg.co.za/Pages/Reports.aspx** "IFWG CAR Working Group Position Paper on Crypto Assets" under 2020. [Accessed 1 July 2026].

13 **www.ifwg.co.za/Pages/Reports.aspx** "Position Paper on Crypto Assets" under 2021. [Accessed 1 July 2026].

14 See the paper for more detail on the positions, findings and recommendations.

15 General Notice 1350 in *Government Gazette* 47334 of 19 October 2002.

3. Conceptualising crypto assets

The IFWG CAR Working Group Position Paper[16] noted that clarity on the term "crypto assets" was fundamental from a regulatory perspective, as it directly influenced the term's classification and concomitant regulatory treatment. It further noted that various naming conventions had been adopted in just a few years, from "digital tokens" and "digital assets" to "crypto tokens" and "crypto assets". However, despite the different terminology used, the crypto concept is commonly based on decentralised technology such as decentralised ledger technology (DLT) and blockchain. The definitions used generally focus on a crypto asset's electronic nature, its potential as a medium of exchange and its role as a representation of value. Many policymakers, regulators and central banks have accepted that crypto assets are not "money" in the legal tender sense of the word, notwithstanding that they perform certain functions of money.

The term "crypto assets" is preferred in the South African context as it encapsulates and extends to the functions of the crypto phenomenon.[17] The term is also seen as a broader, or "umbrella" term for different crypto asset tokens which may be classified as exchange or payment tokens, security tokens or utility tokens.

The IFWG CAR Working Group Position Paper adopted the following definition of "crypto asset":[18]

> "A crypto asset is a digital representation of value that is not issued by a central bank, but is traded, transferred and stored electronically by natural and legal persons for the purpose of payment, investment and other forms of utility, and applies cryptography techniques in the underlying technology."

This definition presupposes the inclusion of stablecoins and, by extension, global stable coins, but does not include digital representations of sovereign currencies, and is therefore not regarded as legal tender or public money.[19] The Financial Stability Board (FSB) defines a stablecoin as "a crypto asset designed to maintain a stable value relative to another asset (typically a unit of currency or commodity) or a basket of assets."[20]

In 2026, National Treasury released draft regulations in terms of the Currency and Exchanges Act, 1933, governing capital flow management.[21] This document defines "crypto asset" as "a digital representation of value that (a) is not issued by a central bank, but is capable of being traded, transferred or stored electronically by natural and legal persons for the purpose of payment, investment and other forms of utility; (b) applies cryptographic techniques; and (c) uses distributed ledger technology". These regulations also specifically include crypto assets in the definition of "capital" for purposes of capital flow management and excludes crypto assets from the definitions of "currency" and "foreign currency".

16 Paragraph 2.1.1.
17 Paragraph 2.1.3.
18 Paragraph 2.1.3.
19 Paragraph 2.1.3.
20 Paragraph 2.1.3.
21 Government Gazette No. 7375, Notice 54520, published on 17 April 2026.

As noted above, decentralised technology includes decentralised ledger and blockchain technology. The World Bank Group defines DLT and blockchain, respectively, as –[22]

Distributed ledger technology

> "DLT refers to a novel and fast-evolving approach to recording and sharing data across multiple data stores (or ledgers). This technology allows for transactions and data to be recorded, shared, and synchronized across a distributed network of different network participants."

Blockchain

> "A 'blockchain' is a particular type of data structure used in some distributed ledgers which stores and transmits data in packages called 'blocks' that are connected to each other in a digital 'chain'. Blockchains employ cryptographic and algorithmic methods to record and synchronize data across a network in an immutable manner."

The OECD's *Taxing Virtual Currencies – An Overview of Tax Treatments and Emerging Tax Policy Issues,*[23] after referring to the above-mentioned World Bank Group's definition of DLT, stated that –

> "[t]he technology allows for transactions and data to be recorded and shared in a synchronised and decentralised way across network participants. The key advantage is transactions between network participants do not necessarily need an intermediary or central party to be processed (Houben and Snyers, 2018[24])."

It further described "blockchain" as –[25]

> "… a specific kind of DLT, which underpins many different applications, including many of the virtual currencies, such as Bitcoin. "A 'blockchain' is a particular type of data structure used in some distributed ledgers which stores and transmits data in packages called 'blocks' that are connected to each other in a digital 'chain'. Blockchains employ cryptographic and algorithmic methods to record and synchronize data across a network in an immutable manner" (Houben and Snyers, 2018[26])."

Having explored the concept of crypto assets, it is also helpful to consider their legal nature, as this has been progressively clarified over time in the courts and in journal articles. Guidance from other comparable jurisdictions is also included (see **3.1**).

22 **https://documents.worldbank.org/en/publication/documents-reports/documentdetail/1779115137140622 15/distributed-ledger-technology-dlt-and-blockchain**, in 'overview' [Accessed xx June 2026].

23 **www.oecd-ilibrary.org/taxation/taxing-virtual-currencies_e29bb804-en**, page 11 [Accessed 1 July 2026].

24 Houben, R and Snyers, A (2018), *Cryptocurrencies and blockchain: Legal context and implications for financial crime, money laundering and tax evasion STUDY Requested by the TAX3 committee Policy Department for Economic, Scientific and Quality of Life Policies*, European Parliament.

25 **www.oecd-ilibrary.org/taxation/taxing-virtual-currencies_e29bb804-en**, i 1.2.1 [Accessed 1 July 2026].

26 Houben, R and Snyers, A (2018) as above.

3.1 Legal nature of crypto assets

Aside from the SARS Media Release issued on 6 April 2018, which described crypto assets as intangible assets not considered to be currency, a sentiment repeated in the 2026 draft regulations on capital flow management,[27] there has been little guidance from either regulators or the courts. However, in 2024, the Western Cape High Court held as follows in *Bester NO and others v Mirror Trading International (Pty) Ltd t/a MTI (In Liquidation) and others*:[28]

> "From the available information it appears that, in general, cryptocurrency possesses the following characteristics: it is a thing, incorporeal, intangible, fungible, divisible and movable."

In May 2025, the Gauteng Division of the High Court, sitting in Pretoria, handed down judgement in the matter of *Standard Bank of South Africa v the South African Reserve Bank and others.*[29] In the context of whether a trade in crypto assets fell within the ambit of the SARB's purview, the court stated as follows:[30]

> "Cryptocurrency is not money. The construction that cryptocurrency is money, by looking at the definition of money which includes foreign currency, is strained and impractical … Cryptocurrency is an asset that is bought and sold."

In the same context, in *Square Mangundhla and Another v SARB and Others*[31]*,* Wilson J disagreed with the above-mentioned judgement and held that taking into account the real world consequences of its use, bitcoin is money.

In his journal article titled "Tax treatment of cryptocurrencies: Some lessons from foreign law", Professor Fareed Moosa of the University of the Western Cape[32] refers to international case law from Hong Kong, Singapore, and New Zealand. He concludes that –

> "… for purposes of income tax and capital gains tax under the ITA, cryptocurrencies ought to be characterised as virtual (digital) property of an intangible nature potentially capable of being ascribed a monetary value".

As part of his reasoning, Professor Moosa relies on the analysis of the Hong Kong High Court in *Gatecoin Ltd (in liquidation)*[33] which in turn relies on the High Court of New Zealand in *Ruscoe v Cryptopia Ltd (in liquidation).*[34] The New Zealand judgment quotes, with approval, a British report ("the LawTech report") by the United Kingdom Jurisdiction Taskforce titled *Legal Statement on Cryptoassets and Smart Contracts,*[35] compiled by four barristers[36] who are all experts in this field. The LawTech report, although framed in English law, provides a

27 Government Gazette No. 7375, Notice 54520, published on 17 April 2026.

28 *Bester NO and Others v Mirror Trading International (Pty) Ltd t/a MTI (In Liquidation) and Others* 2024 (1)(SA 112 (WCC) at para 44.

29 Under case number: 047643/2023. It is noted that this case is the subject of an appeal to the Supreme Court of Appeal, likely to be heard during 2026.

30 At paragraphs 64-65 of the judgement.

31 Under case number: 2022-029979, at paragraph 22, 23 and 34.

32 Published online by LexisNexis under Insurance and Tax Vol 38 of 2023, No 4, Nov 2024 [Accessed 1 July 2026].

33 *Gatecoin Ltd (in liquidation)* (HCCW 18/2019) [2023] HKCFI 914.

34 *Ruscoe v Cryptopia Ltd (in liquidation)* [2020] NZHC 728.

35 UK Jurisdiction Taskforce *Legal Statement on cryptoassets and smart contracts* (The LawTech Delivery Panel, November 2019) accessed online at **https://lawtechuk.io/our-reports/** [Accessed 1 July 2026.

36 Lawrence Akka QC, Twenty Essex, David Quest QA, 3 Verulam Buildings, Matthew Lavy, 4 Pump Court and Sam Goodman, Twenty Essex.

crucial linkage between centuries-old legal concepts and constantly evolving fintech. Under the heading “What is a Cryptoasset?”, the report states as follows:

> “A cryptoasset is ultimately defined by reference to the rules of the system in which it exists. Functionally, it is typically represented by a pair of data parameters, one public (in that it is disclosed to all participants in the system or to the world at large) and one private. The public parameter contains or references encoded information about the asset, such as its ownership, value and transaction history. The private parameter—the private key—permits transfers or other dealings in the cryptoasset to be cryptographically authenticated by digital signature. Knowledge of the private key confers practical control over the asset; it should therefore be kept secret by the holder. More complex cryptoassets may operate with multiple private keys (multisig), with control of the asset shared or divided between the holders.
>
> Dealings in a cryptoasset are broadcast to a network of participants and, once confirmed as valid, added to a digital ledger. The main function of the ledger is to keep a reliable history of transactions and so prevent double-spending, i.e. inconsistent transfers of the same cryptoasset to different recipients. The ledger may be distributed and decentralised, that is, shared over the network with no one person having a responsibility for maintaining it, or any right to do so. A common type of distributed ledger uses a blockchain, which comprises blocks of transactions linked together sequentially, but other models are also in use.
>
> An important feature of some systems is that the rules governing dealings are established by the informal consensus of participants, rather than by contract or in some other legally binding way. Consensus rules (employing methods such as proof-of-work or proof-of-stake) may also determine which version of the distributed ledger is definitive. The rules are self-enforcing in practice, even if not enforceable in law, because only transactions made in compliance with them and duly entered in the ledger will be accepted by participants as valid.
>
> Although not all systems possess all of them, we can therefore identify the principal novel and characteristic features of cryptoassets as being:
>
> (a) intangibility;
>
> (b) cryptographic authentication;
>
> (c) use of a distributed transaction ledger;
>
> (d) decentralisation; and
>
> (e) rule by consensus.”

The LawTech report on the Legal Statement on Cryptoassets and Smart Contracts also makes some profound statements regarding ownership and transfer under English law, which serve to elucidate the likely development of local jurisprudence:

> “The starting point, in our view, is that a person who has acquired knowledge and control of a private key by some lawful means would generally be treated as the owner of the associated cryptoasset, in much the same way that a person lawfully in possession of a tangible asset is presumed to be the owner. However, ownership also depends on the circumstances and on the rules of the relevant system. For example:
>
> (a) a person may hold the key on behalf of another, e.g. an employer or client, or as a custodian or intermediary, in which case ownership would be determined by established rules of agency or trust;
>
> (b) a cryptoasset may have multiple keys, in which case ownership may be shared or separated between the holders, perhaps by reference to different functions of the asset;
>
> (c) a person who has obtained a private key unlawfully, e.g. through hacking, could not be treated as the lawful owner;
>
> (d) how a cryptoasset is originally created depends on the rules of the system; for example, bitcoins are created as part of the mining process by which the ledger is constructed and validated;

(e) there may be practical difficulties in identifying the owner in systems, such as Bitcoin, where transactions take place by reference only to anonymous address identifiers rather than named legal persons;

(f) in non-anonymous systems where cryptoasset owners are identified in the transaction ledger, the status of the record (e.g. whether it treated as definitive or merely evidential) is likely to depend on what the participants have agreed as to its effect.

How is ownership transferred? That question requires consideration of what actually happens on a transfer. We have said above that a cryptoasset is functionally represented by a pair of data parameters, with the public parameter containing encoded information about the asset. In order to make a transfer within the cryptoasset system, the transferor typically modifies the public parameter, or generates a new one, so as to create a record of the transfer (including details of the transferee). The transferor then authenticates the record by digitally signing it with the private key. At that point, the cryptoasset becomes linked to the private key of the transferee and is therefore under the transferee's exclusive control. Once the transaction is recorded in the ledger, any attempts by the transferor to transfer the cryptoasset again should not be accepted by the consensus.

A transaction of that kind is sometimes described as on-chain because it is reflected in the ledger or blockchain. Although one can describe and conceptualise the process as a transfer (and that is the word we have used in this Statement), it is not really analogous to the delivery of a tangible object or the assignment of a legal right, where the same thing passes, unchanged, from one person to another. Instead, the transferor typically brings into existence a new cryptoasset, with a new pair of data parameters: a new or modified public parameter and a new private key. The data representing the "old" cryptoasset persists in the network, but it ceases to have any value or function because the cryptoasset is treated by the consensus as spent or cancelled so that any further dealings in it would be rejected. The "new" cryptoasset is represented by new data and controlled by a new key. There is a closer analogy with a bank payment where no property in the payer's funds passes to the payee; instead new property is created by the credit to the payee's account.

A transfer is completed, and a new cryptoasset is created, once the transferor authenticates and broadcasts it. It may take some time for a transaction to be entered onto the ledger and accepted by the consensus but in principle that should not prevent or delay the transferee's assumption of ownership of the cryptoasset. As we explain below, the ledger should not be regarded as a definitive record of title. However, until the transaction is on the ledger, there is a risk that the transferor will make a second transfer (i.e. double-spending the cryptoasset) and that that will be accepted on the ledger in priority to the first. The (first) transferee's cryptoasset would then not be recognised as validly transferred and so would in practice be worthless.

Analysing a transfer in this way has a significant legal consequence. It is a general principle of the law that someone who does not own a thing cannot validly confer ownership in it on someone else; so if Chuck steals a painting from Alice and sells it to Bob then Alice is still the owner and can require it to be returned to her, even if Bob acted in good faith and without knowledge of the theft. However, we do not think that that principle applies in the case of cryptoassets. That is because, adapting the previous example, the cryptoasset received by Bob is not the same thing as the cryptoasset held by Alice but is a newly created thing owned by Bob. And Alice's problem is not so much that she has been deprived of ownership or control of her cryptoasset but rather that, as result of Chuck's misconduct, the cryptoasset is now regarded by the consensus as spent or cancelled.

It is also possible, in principle, to make an off-chain transfer, where parties enter into an agreement to transfer a cryptoasset but where the transfer is not recorded in the transaction ledger and no new data parameters are created. We see no reason why such an agreement, if drafted appropriately, would not be recognised and enforced, and it may sometimes be a convenient way of creating security over a portfolio of cryptoassets. However, an off-chain transfer creates practical difficulties: the transferor knows the private key (since no new key is generated) and so retains control of the cryptoasset and the ability to transfer it again, creating the risk for the original transferee that we have discussed above."

Although South African law shares significant common ground with English law, care must be exercised when drawing guidance from English law. Nevertheless, the above analysis of the practical process underpinning the 'transfer' of crypto assets reinforces the appropriateness of the principle, already considered in South African law and incorporated into the 2026 draft regulations on capital flow management,[37] that crypto assets are not "money" or "currency". It follows that ownership of crypto assets is not capable of transfer by way of "*commixtio*".

Therefore, although crypto assets are fungible in nature,[38] in every application – whether an acquisition or disposal (fiat to Ether, BTC to fiat), an exchange between platforms (for example, Solana to Ethereum), swapping one crypto asset for another on the same exchange (for example, BTC for Ripple on Luno), or using crypto assets as a form of payment (exchanging BTC for groceries at a supermarket) – the crypto asset so used is generally disposed of in the process. As such, as a rule of thumb, there is usually a tax event associated with the application of crypto assets for one or both parties. If a taxpayer transfers crypto assets from one wallet to another wallet, both in the taxpayer's name; the question of whether a tax event occurs is dependent upon the specific facts of the transfer, such as but not limited to, the asset and the platform in question, and the processes followed in effecting the transfer. It is therefore incumbent upon the taxpayer to understand these facts and circumstances in order to determine tax consequences of such wallet transfers.

3.2 Tax nature of crypto assets

3.2.1 "Amount"

The word "amount" is frequently used in the Act. Although not defined in the Act, it has been the subject of various court cases. In *WH Lategan v CIR,*[39] in relation to the definition of "gross income", Watermeyer J explained as follows:

> "In his Lordship's opinion, the word 'amount' must be given a wider meaning and must include not only money but the value of every form of property earned by the taxpayer whether corporeal or incorporeal, which has a money value."

While crypto assets are assets and not "money" or "cash", each crypto asset clearly possesses a determinable value at every application and therefore has an amount. The amount of a crypto asset at a particular point in time equals its value at that same point. The value of a crypto asset is its market value,[40] which generally represents the price agreed upon between a willing buyer and a willing seller in an open market.[41]

3.2.2 Crypto assets are financial instruments

The term "financial instrument" is defined in section 1(1) and "includes … any crypto asset".[42] The phrase "crypto asset" is not defined. Consequently, the general meaning of the word as commonly understood applies. The consideration in **3** aims to provide context to the ambit of this phrase.

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37 Government Gazette No. 7375, Notice 54520, published on 17 April 2026.

38 *Bester* case (supra).

39 1926 CPD 203, 2 SATC 16 at 19. See also Interpretation Note 58 "The *Brummeria* Case and the Right to Use Loan Capital Interest Free".

40 In *Lace Proprietary Mines Ltd v CIR* 1938 AD 267, 9 SATC 349 the true consideration in the form of shares was held to be the value of the shares and not the stated price or nominal value. See also **3.2.3** and **4.2**.

41 *Minister of Water Affairs v Mostert* 1966 (4) SA 690 (A), 4 All SA 304 (A) at 327 and paragraph 31(1)(*g*) (in relation to crypto assets held on capital account).

42 Definition of financial instrument in section 1(1).

The inclusion of a crypto asset in the definition of "financial instrument" carries significant tax implications. For example, financial instruments (and thus crypto assets) held by individuals or special trusts are excluded from the definition of "personal-use asset"[43] and may therefore be subject to CGT on disposal (see Example 5 in **4.1**). Furthermore, if held as trading stock, crypto assets on hand at the end of the year of assessment must be included in closing stock at cost, rather than the diminished value specified in section 22(1)(*a*) (see Example 6 in **4.1**).

3.2.3 Crypto assets are not "shares", "currency", "exchange items" or traded on a "recognised exchange"

Shares

Although crypto assets are incorporeal assets, similar to uncertificated shares, they do not constitute "shares" or "equity shares" because they do not represent units of proprietary interests in any company. Therefore, the rules applicable to shares do not apply to crypto assets.

In particular, the statutory solution for shares contained in section 9C does not apply to crypto assets. Consequently, there is no "three-year rule" after which receipts and associated expenditure are deemed to be capital in nature in the context of crypto assets. Each tax event must therefore be considered on a case-by-case basis (see **3.1**).

Currency and exchange item

The Act does not define "currency". As already stated, crypto assets are not considered "currency" or "money" for income tax purposes. The question then arises whether crypto assets could be units of "foreign currency" for purposes of income tax, a term defined in the Act.[44] If yes, then crypto assets would be classified as "exchange items" under section 24I. Taxpayers subject to section 24I[45] would then need to calculate unrealised foreign exchange gains or losses while holding the crypto asset, and realised foreign exchange gains and losses on realisation. These gains would be included in or losses deducted from income in the relevant year of assessment when calculating taxable income as required under section 24I.[46]

Section 24I exclusively addresses foreign exchange gains and losses as calculated under that section. If an exchange item is disposed of at a gain or loss (distinct from a foreign exchange gain or loss), that gain or loss is dealt with under normal principles.

The preferred interpretation of the legal nature of crypto assets is that, although highly versatile and capable of negotiability, they are not "currency" and, consequently not "foreign currency". It has been argued in local academic circles[47] that crypto assets may fall within the ambit of " 'foreign currency' or 'currency other than the currency of the Republic', unless it can be substantiated that cryptocurrency is not a currency to begin with". As indicated above, crypto assets do not satisfy the hallmarks of currency and instead belong more appropriately in the realm of intangible assets. This view is aligned with the 2026 draft regulations on capital flow management, published by the Minister of Finance in terms of the Currency and Exchanges Act 9 of 1933.[48] Consequently, for these reasons crypto assets are not regarded as "foreign

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43 Paragraph 53(3)(*e*).
44 Section 24I(1) and paragraph 43(7).
45 See section 24I(2).
46 See Interpretation Note 101 "Gains or Losses on Foreign Exchange Transactions".
47 Byron Thomas Cryptocurrency published in Income Tax Reporter Tax Planning Corporate and Personal Volume 32 No 6, December 2018 [accessed online via LexisNexis on 12 September 2025].
48 Government Gazette No. 7375, Notice 54520, published on 17 April 2026.

currency" or "currency other than the currency of the Republic" and are not subject to section 24I.

Section 25D and paragraph 43 apply to translate "amounts in foreign currency". Although crypto assets are not, themselves, amounts of foreign currency, a crypto asset may have a value that is determined and expressed in a foreign currency. In such a case, this value constitutes an amount in foreign currency, and the rules in section 25D and paragraph 43 apply in translating that amount to an amount in Rand. To illustrate, B, a South African tax resident individual, exchanges one BTC for an amount of Ether on a crypto exchange based in the United States of America. The exchange notifies B that the sale of the BTC occurred at $110 286. In completing B's tax return, B must determine the amount that was realised upon the disposal of the BTC. The United States Dollar (USD) value of Ether ($110 286) is the amount B received and, as an amount in a foreign currency (USD), the provisions of section 25D (if the BTC was held on revenue account) or paragraph 43 (if the BTC was held on capital account) are applied to determine the Rand amount that must be recorded in B's tax return.

The facts of a particular case must be considered against the requirements of, as appropriate, that section or paragraph, to determine whether there is an amount in foreign currency that requires translation and whether section 25D or paragraph 43 is applicable.

Example 1 – Recording the market value of crypto assets for tax purposes

Facts:

A, a South African tax resident, exchanged a unit of trading stock with B for one unit of Crypto Asset X, listed on a crypto exchange based in the USA. Crypto Asset X's value at the time of sale was $100. The value of Crypto Asset X is always and only determined and quoted in USD. A purchased the unit of trading stock during the year of assessment for R450.

The spot rate at the time of sale was 1 USD: 17,80 ZAR.

Result:

A must include the amount received from the disposal of the unit of trading stock in gross income. The amount received is the value of the unit of Crypto Asset X (see **3.2.1**). As this amount is in foreign currency, it must be translated to Rand. Section 25D is applied to translate the value of $100 to Rand by applying the spot rate on the date of the transaction. Therefore, A must include R1 780 (USD100 x 17,80) in gross income. A may claim a deduction of R450 under section 11(*a*) for the expenditure incurred in acquiring the trading stock.

Example 2 – Recording the market value of crypto assets for tax purposes

Facts:

C, a South African tax resident, has a bank account in the USA with Bank of America. C used US Dollars taken from that bank account to purchase BTC on Coinbase, also in the USA. C is a trader and holds all crypto assets on revenue account.

At the end of the year, the purchased BTC formed part of C's closing stock as it had not yet been sold.

Result:

Subject to subsections (2), (3) and (4), section 25D(1) provides that any amount received by or accrued to, or expenditure or loss incurred by, a person during any year of assessment in foreign currency must be translated to South African Rands at the spot rate[49] on the date the amount was received or accrued, or the expenditure or loss was incurred.[50]

The USD amount C spent acquiring the BTC is an amount of expenditure incurred in foreign currency that requires translation to ZAR for tax and record-keeping purposes. Section 25D applies to translate USD amounts to ZAR when calculating the amount of the deduction available under section 11(*a*) and the amount to be included in closing stock. Deductions under section 11(*a*) and the closing stock provisions under section 22 are key elements in determining taxable income.

The BTC included in closing stock at year end is not an exchange item requiring translation at year-end under section 24I.

Trade on a recognised exchange - market value rules in the Eighth Schedule

The rules contained in paragraph 31 for determining the market value of an asset on a specified day apply for purposes of the Eighth Schedule.

In relation to financial instruments that are held on capital account, specific rules are contained in paragraph 31(1)(*a*) if the financial instruments are listed on a "recognised exchange". A "recognised exchange" for an exchange operating in South Africa means an exchange licensed under the Financial Markets Act.[51] Therefore, before paragraph 31 can be applied to a crypto asset held on capital account that is listed on an exchange operating in South Africa, it is necessary to consider whether that exchange is licensed under the Financial Markets Act. Currently, crypto exchanges operating in South Africa are not licensed under the said act and thus cannot qualify as a "recognised exchange". Therefore, paragraph 31(1)(*a*) is not currently applicable to crypto assets despite their inclusion in the definition of "financial instrument". Similarly, paragraph 31(1)(*a*) does not currently apply to crypto assets traded on a foreign crypto exchange.

Consequently, paragraph 31(1)(*g*) is relevant. This paragraph provides that for any asset not covered by any of the preceding sub-paragraphs in paragraph 31, market value is –

> "the price which could have been obtained upon a sale of the asset between a willing buyer and a willing seller dealing at arm's length in an open market".

In practice, the market value of a crypto asset may correspond to the price realisable on a crypto exchange at the time of the transaction.

[49] The term "spot rate" is defined in section 1(1) and means "the appropriate quoted exchange rate at a specific time by any authorised dealer in foreign exchange for the delivery of currency".

[50] For guidance on section 25D, see Interpretation Note 63 "Rules for the Translation of Amounts Measured in Foreign Currencies other than Exchange Differences governed by Section 24I and the Eighth Schedule".

[51] Paragraph 1.

3.2.4 Capital or revenue nature of crypto assets

One of the important tax principles requiring consideration is whether an amount is of a capital or revenue nature.

The normal income tax rules apply to crypto assets when determining whether an amount is of a capital or revenue nature. The Act does not define this concept, but numerous court cases have considered whether an amount is of a capital or revenue nature and have provided principles and tests for consideration. However, there is –[52]

> "no single infallible test of invariable application".

The facts and circumstances of each case are critical in making this determination. The onus of proving that an amount is of a capital or revenue nature, and therefore providing sufficient supporting evidence, rests on the taxpayer under section 102 of the TA Act. The various tests which must be considered when determining whether an amount is of a capital or revenue nature are considered in more detail in Chapter 2 of the *Comprehensive Guide to Capital Gains Tax*.

One of the uses considered in **4**[53] is the disposal of a crypto asset for money or for another crypto asset.[54] When considering whether the amount received or accrued from the disposal of a crypto asset is of a capital or revenue nature, one of the key tests is whether the asset was disposed of in the course of carrying on a business or a scheme of profit-making. This section of the guide briefly considers that test, some of the factors requiring consideration in its application, and some of the relevant case law. For more detailed information, the *Comprehensive Guide to Capital Gains Tax* can be consulted.

The taxpayer's intention, sometimes alternatively referred to as the taxpayer's purpose, in relation to the particular crypto asset is a very important factor to consider. The sale of an asset in the course of carrying on a business or in pursuance of a profit-making scheme suggests that the selling price is of a revenue nature. Conversely, if the sale of the crypto asset was the realisation of a capital asset to best advantage, the selling price is more likely to be of a capital nature.

It is important to consider the taxpayer's intention at the time of acquisition, at the time of selling the asset, and whilst holding the asset, as a taxpayer's intention regarding an asset may change over time. This consideration requires a broad view of all relevant facts and circumstances.

The current legal position regarding a taxpayer's capital or revenue intention was concisely articulated in *Commissioner for the South African Revenue Service v Capstone 556 (Pty) Ltd*:[55]

> "[31] Apart from the [stated] intention of the taxpayer, a number of factors must be considered. First, the nature of the business activities of the taxpayer must be scrutinised. As Stott and Samril Investments demonstrate the line of demarcation between the realisation of an asset at a capital gain [Stott] and turning an existing asset to the purpose of generating revenue [Samril Investments} may be a fine one. So close regard must be paid to the nature of the business activities in which the taxpayer is ordinarily engaged. In Stott, the sale of land acquired with the surplus from the taxpayer's profession as a land surveyor was reasonably remote from his main business activity.

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52 *CIR v Pick 'n Pay Employee Share Purchase Trust* 1992 (4) SA 39 (A), 54 SATC 271 at 279.

53 4 – Uses of crypto assets and associated income tax consequences – considers the application of tax principles to some of the common uses of crypto assets.

54 These uses are considered in **4.1** and **4.2** respectively.

55 2016 (4) SA 341 (SCA); 78 SATC 231 at 248.

In Samril Investments, the sale of sand was closely connected to the farming business already conducted on the property.

[32] Second, the period for which the asset is held and the period for which it was anticipated it would be held at the time of acquisition will be relevant. In general, the longer that period the more likely it is that the disposal is a realisation of capital rather than a receipt of income. Third, when dealing with an investment, the nature of the risk undertaken has a bearing on whether the exercise is one directed at building up the value of the taxpayer's capital or directed at generating revenue and profit. Finally, it must be recognised that in many commercial situations there may be no clear intention at the outset and any endeavour to discern one or select one as more prominent than another, rather than accepting that the taxpayer's future intentions were indeterminate, may be artificial and unhelpful. In such circumstances, a better approach is to accept the indeterminacy and factor that into the enquiry. Other relevant factors are set out in Natal Estate, at 202 in fine, but the list is not exhaustive."

[Our insert for clarification]

The dicta in *Natal Estates Ltd v Secretary of Inland Revenue* remains similarly useful:[56]

"In deciding whether a case is one of realising a capital asset or of carrying on a business or embarking upon a scheme of selling land for profit, one must think one's way through all of the particular facts of each case. Important considerations include, inter alia, the intention of the owner, both at the time of buying the land and when selling it (for his intention may have changed in the interim); the objects of the owner, if a company; the activities of the owner in relation to his land up to the time of deciding to sell it in whole or in part; the light which such activities throw on the owner's ipse dixit as to intention; where the owner sub-divides the land, the planning, extent, duration, nature, degree, organisation and marketing operations of the enterprise; and the relationship of all this to the ordinary commercial concept of carrying on a business or embarking on a scheme for profit. Those considerations are not individually decisive and the list is not exhaustive."

In conclusion, all the facts of a particular case must be considered when determining a taxpayer's intention and whether amounts realised in relation to crypto assets are of a capital or revenue nature. Some of the factors to be considered include, but are not limited to the following:

- The taxpayer's *ipse dixit* regarding why the crypto asset was acquired and disposed of.

  This is a subjective factor and although often used as the starting point, the stated intention is not decisive without objective support from all the relevant facts and circumstances.

- The conduct and activities of the taxpayer in relation to the particular crypto asset.
- The nature of the taxpayer's business and occupation.
- The frequency, or lack thereof, of involvement in similar transactions – see also comments below under "No return or low return on investment".
- The length of time the crypto asset was held and that was anticipated at the time of acquisition.

  As previously stated, the statutory three-year time limit for determining the capital nature of an investment, as outlined in section 9C, applies solely to equity shares and participatory interests in collective investment schemes. Crypto assets are not subject to this three-year rule. Therefore, it is inappropriate to apply this benchmark with any measure of rigidity when determining the nature of gains realised from crypto assets.

[56] 1975 (4) SA 177 (A); 37 SATC 193 at 220.

For example, if a taxpayer traded crypto assets with the intention of profiting from their disposal, and subsequently sold a particular crypto asset five years after acquisition at a profit or a loss, that profit or loss would be of a revenue nature. See also comments below under 'No return or low return on investment'.

- No return or low return on investment.

  Some investments do not generate an income stream (such as interest, dividends, or rental income). Consequentially, any return on these investments is intrinsically linked to the growth of the investment vehicle itself. Krugerrands are a prime example; an investor can only realise returns by selling the gold. Therefore, circumstances in which no return or a low return prevail, may be indicative of an intention to resell at a profit. However, the taxpayer's expressed intention, along with all surrounding circumstances, must be taken into account.

  Case law on Krugerrands provides some guidance on the type of circumstances in which the court has previously considered whether gains realised from the disposal of an asset, which yielded no return beyond its intrinsic value, were of a capital or revenue nature.[57] The length of the holding period may have played a role, but as the cases illustrate, a long or short holding period is not conclusive, in isolation. Additional factors were relevant in guiding the courts to their conclusions (see the 'Intention in acquiring' column in the table below). Although crypto assets are quite distinct from Krugerrands in nature, these cases are important as they confirm that reaching a conclusion requires considering all facts on a case-by-case basis, with no single factor being decisive.

Case	Court's finding	Period held	Intention in acquiring	Reason for selling
ITC 1355[58]	Capital	4 to 5 years	Bought as an investment to provide assistance during difficult times.	To assist family members (ill father, bedridden sister, and provide dowry for sister).
ITC 1379[59]	Capital	1 to 13 years	Bought as an easily transportable investment that retained its value.	Sold all after repeated warnings that the gold price was too high and would fall.
ITC 1525[60]	Revenue	12 years	To provide funds for a rainy day.	Sold to inject capital into a new business.

57 "The **Krugerrand** is a South African coin, first minted on 3 July 1967 to help market South African gold and produced by Rand Refinery and the South African Mint" (**www.grcmint.co.za/product/1oz-gold-krugerrand-coin/**) [Accessed 1 July 2026].

58 (1981) 44 SATC 132 (C).

59 (1983) 45 SATC 236 (C).

60 (1991) 54 SATC 209 (C).

Case	Court's finding	Period held	Intention in acquiring	Reason for selling
ITC 1526[61]	Revenue	8 months to 9 years	To provide a store of wealth for his children and protection from inflation.	Improvements to home and garden, buying two holiday apartments, a home for each of his daughters, repaying loan account, buying a car for his daughter, paying university fees and buying shares.
ITC 1543[62]	Capital	12 years	Bought by family company as a hedge against inflation for the benefit of children.	To finance reroofing of house, and to switch into shares because of a declining gold price.
CIR v Nel[63]	Capital	13 years	Long-term investment. Hedge against inflation. No intention to sell but rather to bequeath to children.	Urgent need by taxpayer to purchase a car for his wife.

Crypto assets do not generally offer a return on investment beyond what is intrinsic to their asset value. In this regard they are similar to Krugerrands and therefore case law on the latter (see table above) may be useful. Investors wanting to maximise crypto asset investments and that regularly balance their portfolios to stay aligned with market fluctuations, are likely to be regarded as trading on revenue account for tax purposes.

- The nature of the risks associated with the investment.

  As an asset class, crypto assets occupy the upper end of the range of volatility. For example, according to an article published in 2024 in Forbes,[64] BTC's volatility, at 46,31%, was 4.8 times higher than the S&P 500 (9,64%), 5.3 times higher than gold (8,68%), and 3.1 times higher than Apple stock (16,60%) over the past decade.

  Consequently, when the intention of a taxpayer that opted to invest in crypto assets is to be determined, the volatility of the crypto assets may be illuminating. However, this factor is not decisive on its own. A taxpayer saving for his or her future retirement would generally be expected to choose safer investment options, especially if he or she is older and needs to conserve the capital already amassed. This position may change if the existing exposure to other asset classes indicates that an investment in a riskier class like crypto assets is warranted given their overall financial position. Otherwise stated, if the purpose is capital preservation, one would generally not invest in a very volatile class of asset that offers high risk for high reward. Nevertheless, some volatility may be justifiable from a risk diversification perspective, when considering the taxpayer's entire investment portfolio.

61 (1991) 54 SATC 216 (T).
62 (1992) 54 SATC 446 (C).
63 [1997] 4 All SA 310 (T), 59 SATC 349.
64 Forbes online articled dated 16 August 2024 titled "How Volatile Is Bitcoin Compared To Other Assets" at **www.forbes.com/sites/digital-assets/2024/08/16/how-volatile-is-bitcoin-compared-to-other-assets/** [Accessed 1 July 2026].

In the context of crypto assets, the value of which is highly volatile, a taxpayer demonstrating a low frequency of transactions and a long holding period may be able to sustain a capital intention. However, if the record of their past transactions indicates that they sold, exchanged, or moved the crypto assets to capitalise on market fluctuations, there is a stronger likelihood that they acted with a revenue intention. Digital wallets on the Lightning network (or Solana, Nano, or Stellar, for example) are designed to facilitate very fast transaction processing and crypto assets held in such wallets are typically subject to high-frequency transactions. This is often indicative of a revenue nature of crypto assets held in such digital wallets.

All such information would be relevant in discharging the onus that rests upon the taxpayer to substantiate their capital *ipse dixit* (stated capital intention) with objective facts.

See Examples in **4.1**, **4.2** and **4.3** for an application of the principles discussed above.

(a) Change in intention

As noted previously, it is important to consider the taxpayer's intention at the time of acquisition, at the time of selling the asset and whilst holding the asset, as a taxpayer's intention in relation to an asset may change over time. This consideration requires a broad view of all relevant facts and circumstances.

A change in a person's intention can result in an asset held as a capital asset becoming trading stock, or in an asset held as trading stock becoming a capital asset.

It has been held that something more than a mere decision to sell an asset is required to effect a change in its character from capital to revenue.[65] In the *Elandsheuwel Farming* case,[66] Trollip JA, concurring with the majority judgment, held that a change of intention is a borderline case, the border being the Rubicon, as described by Holmes JA in *Natal Estates* thus:

> "From the totality of the facts one enquires whether it can be said that the owner had crossed the Rubicon and gone over to the business, or embarked upon a scheme, of selling such land for profit, using the land as his stock-in-trade."

The income tax and CGT consequences of changing one's intention in relation to an asset are generally not deferred until the taxpayer actually disposes of the asset. A change from being held as trading stock to being held as a capital asset will generally trigger a gross income inclusion equal to the market value of the crypto asset[67] and a deemed acquisition for CGT purposes at a cost equal to the same market value that was included in gross income.[68] In contrast, a change from being held as a capital asset to being held as trading stock will trigger a deemed disposal at market value for CGT purposes[69] and a deemed acquisition of trading stock at expenditure equal to the same market value.[70]

65 *John Bell & Co (Pty) Ltd v SIR* 1976 (4) SA 415 (A), 38 SATC 87.
66 *Elandsheuwel Farming (Edms) Bpk v SBI* 1978 (1) SA 101 (A), 39 SATC 163 at 177.
67 Section 22(8)(*b*)(v).
68 Paragraph 12(3).
69 Paragraph 12(2)(*c*).
70 Section 22(3)(*a*)(ii).

(b) More than one intention

Taxpayers can have more than one intention in relation to an asset. If a taxpayer has mixed intentions, the court will endeavour to establish and give effect to the dominant intention.[71] Any profit or loss on the disposal of crypto assets will be of a revenue nature if the sole or dominant intention in purchasing them was for resale as part of a scheme of profit-making.[72]

An amount will also be of a revenue nature when, in addition to a main purpose, a person has a secondary or alternative purpose of making a profit.[73] An example of such a secondary purpose can be found in *CIR v Tod*.[74] The taxpayer initially held all of the shares (mainly in four companies) as a long-term investment aimed at deriving dividend income, which was the taxpayer's main source of income. To spread the risk and maximise the taxpayer's dividend income, the taxpayer sold some shares at a profit. The court was satisfied that the taxpayer's dominant purpose was to hold the shares as long-term investments generating dividend income and that the sales at a profit were incidental to that dominant purpose. Thereafter, the taxpayer changed their investment strategy to buying shares *cum* dividend (that is, ripe with dividends which would be declared and paid to the taxpayer) and then looking to sell those shares (*ex* dividend) and use the proceeds to buy different shares *cum* dividend. The court found that once the new strategy was implemented, the taxpayer held all the shares on the basis that any of the shares might be sold at a profit for the purpose of purchasing other shares *cum* dividend. The court held that the taxpayer therefore no longer had a dominant purpose of generating dividend income but instead had a main purpose of dividend income and a co-existent intention to make a profit on the sale of the shares. Accordingly, this co-existent secondary purpose resulted in profits being of a revenue nature and subject to tax.

Establishing a taxpayer's sole or dominant intention (or, if applicable, main and secondary intentions) is not always an easy task. Given that crypto assets can be used for various purposes – for example, as a method of payment, or for speculative or investment purposes – it is possible that a taxpayer could have more than one intention in relation to a crypto asset transaction.

3.2.5 Trading stock provisions as they apply to crypto assets

"[T]rading stock"—[75]

(*a*) includes—

(i) anything produced, manufactured, constructed, assembled, purchased or in any other manner acquired by a taxpayer for the purposes of manufacture, sale or exchange by the taxpayer or on behalf of the taxpayer;

(ii) anything the proceeds from the disposal of which forms or will form part of the taxpayer's gross income, otherwise than—

(*aa*) in terms of paragraph (*j*) or (*m*) of the definition of "gross income";

(*bb*) in terms of paragraph 14(1) of the First Schedule; or

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71 *COT v Levy* 1952 (2) SA 413 (A), 18 SATC 127 at 136.

72 *Californian Copper Syndicate (Limited and Reduced) v Harries (Surveyor of Taxes* 41 Sc LR 694, 5 TC 159. *CIR v Pick 'n Pay Employee Share Purchase Trust* 1992 (4) SA 39 (A) at 262 and 263, 54 SATC 271 at 276. The assets in both cases were shares.

73 *CIR v Nussbaum* 1996 (4) SA 1156 (A), 58 SATC 283 at 291.

74 1983 (2) SA 364 (N), 45 SATC 1.

75 Definition of "trading stock" in section 1(1). This guide covers selected aspects or trading stock at a high level., For more comprehensive detail see section 22.

(*cc*) as a recovery or recoupment contemplated in section 8(4) which is included in gross income in terms of paragraph (*n*) of the definition of "gross income"; or

(iii) any consumable stores and spare parts acquired by the taxpayer to be used or consumed in the course of the taxpayer's trade; but

(*b*) does not include—

(i) a foreign currency option contract; or

(ii) a forward exchange contract,

as defined in section 24I(1);

The expenditure incurred in acquiring a crypto asset that constitutes trading stock will generally qualify for a deduction under section 11(*a*) in the year of assessment in which the crypto asset is acquired.

If a crypto asset held as trading stock is not disposed of in the year of assessment in which it is acquired or a subsequent year of assessment, it would constitute closing stock under section 22(1)(*a*) as it would be "held and not disposed of … at the end of the year of assessment" in which it was acquired or the subsequent year of assessment, as appropriate. Crypto assets are financial instruments (see **3.2.2**) and as a result they must be included in closing stock at *cost price*.[76] Even if the value of a crypto asset has diminished due to, for example, a decrease in market value or any of the other reasons specified in section 22(1)(*a*), it must be included in closing stock at cost and not at its written down value. When determining taxable income derived during a year of assessment from carrying on a trade, the amount of closing stock must be included in gross income.

Broadly speaking, the same amount included in closing stock must be included in opening stock in the next year of assessment under section 22(2)(*a*) as it would be "held and not disposed of at the beginning of the year of assessment". The amount of opening stock is effectively allowed as a deduction in the relevant year of assessment.

See Example **6** in **4.1**, Example **7** and **8** in **4.2**, Example **9** in **4.3**, Examples **13**-**15** in **4.7**, and Examples **16** and **17** in **4.8**.

The Act does not prescribe which stock valuation methods a taxpayer must use but specifically prohibits the use of the LIFO (last-in-first-out) method in section 22(5).

If trading stock is acquired for no consideration or a consideration not measurable in money, section 22(4) deems that trading stock to have been acquired at a cost equal to market value on the date it was acquired. Practically, the relevant trading stock is included in opening stock at market value upon acquisition. Depending on the facts this could apply to crypto assets acquired and held as trading stock. See Example **21** in **4.10.2**.

[76] Section 22(1)(*a*).

3.2.6 Ringfencing of assessed losses of certain trades

Ring-fencing under section 20A is a measure aimed at taxpayers who are natural persons under which the expenditure incurred in conducting a trade is limited to the income from that trade, if, broadly speaking –[77]

- that taxpayer is subject to tax at the maximum marginal tax rate and in any five-year period;
- that natural person has incurred assessed losses in three years; or
- is engaged in a trade listed in section 20A(2)(*b*). The trades listed in section 20A(2)(*b)* include the acquisition or disposal of any crypto asset.[78]

If section 20A applies, any assessed loss from the crypto asset trade is carried forward and set off only against any income derived from that trade in a subsequent year of assessment.

Natural persons trading in a partnership may be subject to section 20A.

The facts and circumstances of each matter should be considered to determine if the ring-fencing provisions are potentially applicable to any losses arising.

3.2.7 Short-term disposals and acquisitions of identical financial instruments held on capital account

Crypto assets are financial instruments (see **3.2.2**). Paragraph 42, which deals with short-term disposals and acquisitions of identical financial instruments, may be applicable to a crypto asset transaction. An identical asset in the context of paragraph 42 is a financial instrument of the same kind and of the same or equivalent quality.

Paragraph 42 is essentially an anti-avoidance provision aimed at preventing the artificial realisation of capital losses on financial instruments. Paragraph 42 provides that the proceeds from the sale of a financial instrument are deemed to be equal to the base cost where the financial instrument is disposed of at a capital loss and an identical financial instrument is acquired within the 45-day period before or after the sale date. An example is of a taxpayer that disposes of an amount of BTC held as a capital asset at a capital loss, and within a 45-day period after the sale date, the taxpayer re-purchases an equal amount of BTC to be held as a capital asset. The person disposing of the financial instruments need not be the person reacquiring them. In addition, this rule includes connected persons.[79] The definition of "connected person" in section 1(1) does not, for purposes of paragraph 42, extend to –

- any relative[80] of a natural person other than a parent, child, stepchild, brother, sister, grandchild, or grandparent of that person; or
- disposals of assets between the five funds of an insurer contemplated in section 29A.

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[77] For an in-depth consideration of the application of section 20A for natural persons refer to the *Guide on the Ring Fencing of Assessed Losses Arising from Certain Trades Conducted by Individuals.*

[78] Section 20A(2)(*b*)(ix).

[79] Defined in section 1(1). See Interpretation Note 67 "Connected Persons", for a comprehensive consideration on the subject of connected persons.

[80] *Comprehensive Guide to Capital Gains Tax* (Issue 9) at paragraph 9.6:
"For the purposes of this paragraph, however, 'relative' is narrowed in scope. The definition of 'relative' in s 1(1) includes a spouse. However, spouses are excluded for the purposes of para 42, since a transferor spouse must disregard any capital gain or loss under para 67(1)."

Therefore, if applicable, the capital loss on certain crypto asset transactions may not be taken into account by the seller at the time of disposal. Instead, the capital loss is deemed to be part of the expenditure incurred by the "repurchaser" in acquiring the identical crypto asset under paragraph 42.

The *Comprehensive Guide to Capital Gains Tax* can be consulted for more detail.

4. Uses of crypto assets and associated income tax consequences

The crypto asset market is dynamic and subject to constant change and innovation. Consequently, the detail of a particular transaction involving crypto assets is the starting point for any consideration of the income tax consequences of that transaction as well as the impact thereof on the parties' tax positions.

4.1 Selling crypto assets for fiat currency

The tax treatment of receipts from the disposal of crypto assets for fiat currency depends on whether the crypto assets are of a revenue or capital nature. If they are of a revenue nature, these receipts will be included in gross income and, after applicable deductions, subject to normal tax (effective tax rate ranging between 18% and 45%). If they are of a capital nature, the receipts will be included in proceeds and, after applicable base cost deductions, subject to CGT (effective tax rate ranging between 18% and 36%).

While it is necessary to meet all the requirements of the relevant definitions and applicable sections, a comparison of the definitions of "gross income" and "proceeds" (see below) reveals that the main differentiator for tax purposes is generally whether the receipts are of a revenue or capital nature. This issue is considered in **3.2.4**.

The amount for tax purposes will be the fiat currency received or accrued from the disposal. If required, this amount will be translated under section 25D or paragraph 43, as appropriate.

The timing of the receipt or accrual will depend on the specific facts of the case. For transactions conducted on an exchange platform, processing of the transaction is often very fast, meaning the receipt (when the amount is credited to the taxpayer's wallet) and the accrual occur simultaneously. However, it is sometimes necessary to examine the underlying contracts to determine when the amount accrues to the taxpayer and, if applicable, to consult the wallet or other sources to ascertain when the amount is received, for example, in an off-chain transaction.

A resident's "gross income" as defined in section 1(1) includes –

> "the total amount, in cash or otherwise, received by or accrued to or in favour of such resident … excluding receipts or accruals of a capital nature …".

Paragraph 35(1) describes "proceeds from the disposal of an asset" as –

> "the amount received by or accrued to, or which is treated as having been received by, or accrued to or in favour of, that person in respect of that disposal, and includes …".

Both definitions contain specific inclusions not detailed above. Refer to the Act for more detail.[81]

[81] **https://sars.mylexisnexis.co.za/**.

From a deduction perspective, a taxpayer must assess whether they meet all the requirements of a potentially applicable deduction section or paragraph. For a taxpayer holding crypto assets on revenue account, the general deduction formula is one of the sections to consider regarding whether expenditure incurred in connection with their crypto assets may be deducted from the income. Under the general deduction formula in section 11(*a*), read with section 23(*g*), when determining taxable income from carrying on a trade, a taxpayer may deduct expenditure and losses actually incurred in the production of income, provided such expenditure and losses are not of a capital nature.[82] This means, for example, that the cost of acquiring the crypto asset will generally qualify for a deduction under section 11(*a*). The trading stock provisions (see **3.2.5**) may also be applicable.

If a taxpayer holds crypto assets on capital account, Part V of the Eighth Schedule, which deals with base cost, must be considered to determine if the taxpayer qualifies for a base cost deduction. In this regard, it bears notice that the same crypto assets (for example, two units of crypto asset A) constitute "identical assets" within the meaning contained in paragraph 32(2). Consequently, the base cost of such identical crypto assets (for example, two units of crypto asset A), if held on capital account, must be determined using either the specific identification method or the first-in-first-out (FIFO) method. The weighted average method for calculating base cost is not available because crypto asset exchanges are not currently "recognised exchanges" as defined.

Example 3 – Sale proceeds from crypto assets held with the dominant purpose of making profit and high frequency of transactions

Facts:

BM works full-time at a bank. BM is concerned that what can be saved from BM's salary and invested in long-term retirement funds will not be sufficient for retirement. BM accordingly decided to invest in crypto assets and use the profits realised on the disposal of crypto asset sales to supplement BM's retirement savings. Some of the profits realised were invested in a retirement annuity fund, while others were used to purchase more crypto assets for sale.

BM spends some time most evenings researching and monitoring the crypto asset markets on various applications. In the first year, BM had 200 disposals from the disposal of 10 different crypto assets, and, in the second year, 800 disposals from 30 different crypto assets.

Result:

Notwithstanding that the ultimate goal was to build up funds that would be invested in other long-term traditional retirement savings vehicles, BM's dominant intention was to achieve this goal through the purchase and sale of crypto assets at profit. BM also actively monitored the crypto asset market on a regular basis and, as reflected in the number of transactions and the number and variety of crypto assets, traded frequently. The only return on the various crypto assets was the profit on their disposal.

Taking all these factors into account, the proceeds from the disposal of crypto assets in Year 1 and Year 2 are of a revenue nature and must be included in gross income for those respective years.

Under sections 11(*a*) and 22, BM will qualify for a deduction of the cost of the crypto assets on their disposal.

[82] A detailed consideration of section 11(*a*) and section 23(*g*) is beyond the scope of this guide.

Example 4 – The purchase and sale of crypto assets with a profit motive

Facts:

B and C wanted to invest in the education of their only child, D, so that D would be able to attend university. They had heard about crypto assets having the potential to generate significant returns and decided that investing in them would allow the initial amounts plus anticipated profits from disposal in five years when D started university, to cover a significant portion of the university fees.

B took responsibility for investing in crypto assets based on the advice of friends and information read in articles. Over the 5-year period B made on average two investments per year and held three different types of crypto assets.

At the end of 5 years, B sold 2 types of crypto assets for a cash amount, realising a profit on 1 type of crypto asset and a loss on the other. The cash realised was sufficient to pay for D's first year of university fees. For the third type of crypto asset, B made a profit on disposal when exchanging it for a new type of crypto asset.

Result:

Since crypto assets are not equity shares, section 9C will not apply.

The amounts received in respect of the three types of crypto assets – that is the amounts in fiat currency and the market value of the new type of crypto asset – are of a revenue nature. This is because B acquired them with the intention of realising a profit on sale which would then be used to fund university fees. B's intention to make a profit on disposal is not altered by the length of time for which the crypto assets were held, some for as long as 5 years, as the consistent intention was to realise a profit after 5 years to fund university fees. The crypto assets did not produce any income while being held; therefore, the profitable realisation of the crypto assets was critical to B's and C's objective. B's level of involvement in monitoring and managing these crypto asset investments was appropriately aligned with B's investment abilities and purpose and does not detract from the assessment of a revenue nature.

The proceeds, in the form of money and the market value of the new type of crypto asset acquired, received on the disposal of the 3 types of crypto assets, must be included in B's gross income in the year of disposal.

Under section 11(a) and section 22, B will qualify for a deduction of the cost of the crypto assets on their disposal.

This effectively means that B will account for profit and loss on the different types of crypto assets disposed of on revenue account.

Example 5 – Inherited crypto assets

Facts:

Individual E inherited Solana from a deceased family member in year 1. The Solana was transferred directly to E.

In year 2, E decided to sell the Solana for fiat (Rands) and used the proceeds to buy a new car. E did not hold other crypto assets and had not transacted on a crypto asset platform before so asked a friend to assist with making the sale and transferring the proceeds into E's South African bank account.

Result:

E did not acquire the crypto asset with an intention to dispose of it at a profit and none of E's actions after acquisition indicated that E's intention had changed to a profit-making one.

E is entitled to dispose of assets to best advantage. The nature of the proceeds is of a capital nature[83] and must not be included in gross income.

E has disposed of a capital asset and must account for the capital gain or loss on its disposal as required under the Eighth Schedule. Proceeds equal the amount of money received or accrued from the disposal of the Solana units. Under section 9HA(3), E is treated as having acquired the Solana units at market value on the date of the family member's death. The market value of the Solana units on that date must be included in the base cost of the Solana and deducted from the proceeds when calculating the capital gain or loss on disposal. As specific crypto assets align with the definition of "identical assets" in paragraph 32(2), that paragraph applies in relation to determining the base cost of crypto assets that are capital in nature. E may therefore choose whether to use specific identification or the first-in-first-out method to determine the base cost of the Solana sold, as contemplated in that paragraph.

Crypto assets are financial instruments [section 1(1)] and are specifically excluded from the definition of "personal-use asset" [paragraph 53(3)(*e*)]. Therefore, the disregarding of capital gains or losses on personal-use assets is not applicable to the disposal of crypto assets, and E cannot disregard the capital gain or loss on the disposal of the Solana.

Example 6 – Trading with crypto assets - closing stock and opening stock

Facts:

Company A's year of assessment ends on 31 March. Company A trades with crypto assets for the purposes of making profit.

Company A purchased the following crypto assets on 15 March, Year 1:

a) Three units of Crypto Asset X at a cost of R60 000 each.
b) Two units of Crypto Asset Z at a cost of R120 000 each.

The market value on 31 March, Year 1, was R40 0000 for 1 Crypto Asset X, and R140 000 for 1 Crypto Asset Z. During Year 2, Company A sold the 3 units of Crypto Asset X for R55 000 each, and the 2 units of Crypto Asset Z for R200 000 each.

Result:

	R
Year 1	
Gross Income – Closing Stock [section 22(1)(a) and proviso (i); [See note 2]	420 000
Less: Cost of Trading Stock [section 11(a); see note 1]	(420 000)
Net	Nil

[83] *CIR v Strathmore Exploration Ltd* 1956 (1) SA 591 (A), 20 SATC 375.

Year 2:

Gross Income - Sales [see note 3]	565 000
Less: Opening stock [section 22(2)(a)]	(420 000)
Net	145 000

Note:

1) Cost of Trading Stock:

Crypto Asset X = 3 units × cost of R60 000 per unit	180 000
Crypto Asset Z = 2 units × cost of R120 000 per unit	240 000
	420 000

2) Closing stock = cost price:

Crypto Asset X [R180 000] + Crypto Asset Z [R240 000]:	420 000

3) Sales:

Crypto Asset X = 3 units × selling price of R55 000 per unit	165 000
Crypto Asset Z = 2 units × selling price of R200 000 per unit	400 000
	565 000

Company A's tax position, as set out above, is not impacted by whether the purchaser's wallet, into which the sold units of Crypto Asset X and Crypto Asset Z were transferred, was a custodial wallet managed by the same or a different crypto asset service provider, or a non-custodial wallet.

4.2 Selling or swapping a crypto asset for a different crypto asset

Exchanging one crypto asset for another, whether as a trading pair[84] on the same platform or through an *ad hoc* transaction with another party, is considered a barter transaction. However, if trading one crypto asset for another involves an intermediary step of converting the crypto asset to fiat money, and then using that money to purchase a different crypto asset, it is not a barter transaction. Instead, it constitutes the selling of a crypto asset for fiat currency and a subsequent purchase of a crypto asset for fiat currency (see **4.1**).

The income tax principles applicable to exchanging one crypto asset for another are generally the same as for a crypto asset that is sold for money (see **4.1)**. However, quantifying the proceeds and expenditure involves additional considerations. For example, if X exchanges one unit of Crypto A for one unit of Crypto B, the expenditure incurred by X in acquiring Crypto B is the market value of Crypto A. Additionally, X has disposed of Crypto A and will need to account for any gain or loss on that disposal (see **3.2.4** for a consideration of circumstances indicating whether receipts are of a revenue or capital nature). The amount received from the disposal of Crypto Asset A will be equal to the market value of Crypto B, and the expenditure actually incurred in acquiring Crypto A will generally be allowed as a deduction from income or included in the base cost (depending on whether the crypto assets were held on revenue or capital account).

[84] For example, Platform Q may allow users to directly exchange crypto asset A for crypto asset B whereas Platform Z may allow its users to directly exchange crypto asset B for crypto asset C.

As regards the determination of the market value of the assets (or services, if applicable) given in exchange in a barter transaction, Binns-Ward J noted in *South Atlantic Jazz Festival (Pty) Ltd v C: SARS*[85] in relation to sponsorships in kind provided to the Jazz Festival that –

> "… accepting, as one may [in these specific circumstances], that the transactions were at arm's length, the value of the goods and services provided by the appellant [the South Atlantic Jazz Festival] to the sponsors in each case falls to be taken as the same as that of the counter performance by the relevant sponsor…In an ordinary arm's length barter transaction the value that the parties to it have attributed to the goods and services that are exchanged seems to me, in the absence of any contrary indication, to be a reliable indicator of their market value."

Therefore, it can be accepted that in a barter transaction, the market value of the assets (or services) exchanged will, "absent any contrary indication", be the market value of those assets (or services) received. The exchanged assets would thus generally be of equal value. However, the specific facts of the transaction must be considered, as the market value of the crypto assets exchanged may differ and, if so, this difference would need to be accounted for.

The income tax (including CGT if applicable) consequences occur at the time of the transaction and are not deferred until the crypto asset is sold for fiat money.

Example 7 – Crypto asset swap transaction – equal values

Facts:

A held one Ether, purchased for R50 000, on revenue account. At the start of Year 2, EToro (a well-known crypto asset trading platform) had a trading pair of Ether:Solana at a rate of 1:20. A exchanged 1 Ether for 20 Solana.

At the time of the swap in Year 2, EToro's quoted value for 1 Ether was R75 000 and the quoted value of 1 Solana crypto asset was R3 750.

At the beginning of Year 3, A sold the 20 Solana for R80 000.

Result:	R
Year 2 Year of assessment	
*Gross income**	75 000
Section 22(2) Opening Stock (Ether previously purchased for R50 000)	(50 000)
Section 11(*a*) Solana purchased**	(75 000)
Section 22(1) Closing Stock (20 Solana at cost of R3 750 each**)	75 000
Taxable income	25 000
Year 3 Year of assessment	
Gross income (20 Solana sold for R4 000 each)	80 000
Section 22(2) Opening Stock (20 Solana x R3 750 each**)	(75 000)
Section 11(*a*)	-
Section 22(1) Closing Stock	-
Taxable income	5 000

Notes:

* Proceeds on disposal of 1 Ether = market value of 20 Solana = R3 750 × 20 = R75 000

** One Ether, with a market value of R75 000, was given for 20 Solana, therefore the expenditure incurred for each Solana was R3 750 (R75 000/20).

[85] 2015 (6) SA 78 (WCC), 77 SATC 254 at 260 and 261.

Example 8 – Crypto asset Swap transaction – unequal values

Facts:

A held one XBA crypto asset, purchased for R100, on revenue account at the start of Year 2. Platform XYZ had a trading pair of XBA: BGT at a rate of 1:2. A exchanged 1 XBA crypto asset for 2 BGT crypto asset.

At the time of the swap in Year 2, the Platform XYZ's quoted value for 1 XBA crypto asset was R150 and the quoted value of 1 BGT crypto asset was R78.

At the beginning of Year 3, A sold the two BGT crypto asset for R160.

Result:

	R
Year 2 Year of assessment	
Gross income (1 unit of XBA sold)*	156
Section 22(2) Opening Stock (XBA tokens previously purchased for R100)	(100)
Section 11(a) (2 units of BGT purchased)**	(150)
Section 22(1) Closing Stock (2 BGT crypto asset at cost of R75 each**)	150
Taxable income	56
Year 3 Year of assessment	
Gross income (2 BGT sold for R160)	160
Section 22(2) Opening Stock (2 BGT x R75 each**)	(150)
Section 11(a)	-
Section 22(1) Closing Stock	-
Taxable income	10

Notes:

* Proceeds on disposal of one XBA = Market value of two BGT (R78 × 2 = R156)

** One XBA, with a market value of R150, was given for 2 BGT, therefore each BGT has an expenditure of R75.

The mismatch of R6 that arises between the net taxable income inclusion of R66 (R56 + R10) versus a net cash inflow of R60 (R160 cash on disposal in Year 3 – R100 XBA purchase price in Year 1) is equal to the difference between the market value of the 2 BT (R78 × 2) exchanged for one XBA (R150). An equal but opposite difference should be experienced by the other party to the exchange.

4.3 Paying for goods or services using crypto assets / "Receiving" crypto assets for the payment of goods or services

Although crypto assets are not classified as legal tender in South Africa, a growing number of businesses accept them as payment for goods or services. Depending on the particular transaction, a payment for a good or service using a crypto asset could be a direct barter transaction between two parties. In such cases, the principles outlined in **4.2** apply to the disposal of the crypto asset, along with the "normal" income tax consequences for the purchase of the goods or services acquired (as would have arisen if they had been acquired for fiat currency). Alternatively, the transaction may involve a "crypto-converting intermediary" that converts the crypto asset from the purchaser to fiat currency (either directly or using third-

party exchanges) and then uses that fiat currency to pay the seller on behalf of the purchaser. Here, the principles in **4.1** are applicable to the disposal of the crypto asset, along with the "normal" income tax consequences for goods or services acquired for fiat currency. In the latter scenario, the process is often handled through an app and the purchaser may be unaware that a two-step process is involved.

For example, in order to pay for groceries using crypto assets in South Africa, it is necessary to hold the crypto assets in digital wallets designed for small, fast, and frequent transactions, such as Lightning wallets (in the case of Bitcoin) or Luno Pay (which supports Bitcoin, Ethereum, and stablecoins). Generally speaking, the retailer does not directly acquire the crypto assets used by the customer. Instead, an intermediary is involved that uses the fiat currency realised from the sale of the crypto assets, on behalf of the customer, to pay the retailer for the goods purchased by the customer.

It is therefore always important to understand the different steps involved in a transaction so that the tax consequences can be correctly determined. While not always the case, sometimes a different approach can lead to a different tax outcome. It is not possible to provide further guidance in this guide without knowing the details of a particular transaction.

Example 9 – Means of payment

Facts:

A (Pty) Ltd uses BTC to pay for company purchases. A (Pty) Ltd's year of assessment ends on 31 December. On 1 January Year 2 A (Pty) Ltd held BTCs, costing R200 000, in a digital wallet on the Lightning network.

During Year 2, A (Pty) Ltd bought a machine from X and transferred BTC with a market value of R150 000 to X's wallet to settle the amount due and payable. The BTC transferred had originally cost A (Pty) Ltd R110 000. The machine was brought into use during Year 2 in a process of manufacture. The expenditure on the machine qualified for an allowance under section 12C.

A (Pty) Ltd also used the BTC in Year 2 to pay for groceries and liquid refreshments, which its in-house kitchen team needed for the launch party of one of its new products, from a local retailer. The bill totalled R40 000. A (Pty) Ltd is aware that the app used to make the payment to the local retailer involved an intermediary that converted the BTC to R40 000 of fiat currency and then paid the retailer on behalf of A (Pty) Ltd. The BTC so used had originally cost A (Pty) Ltd R29 333. The expenditure on the groceries and liquid refreshments qualified for deduction under section 11(*a*).

Result:

Year 2 Year of Assessment – A (Pty) Ltd

A (Pty) Ltd concluded the following transactions:

1) A barter transaction with X
2) A disposal of fiat currency with an intermediary
3) An acquisition of goods from a local retailer

The income tax consequences of these 3 transactions must be accounted for in Year 2 when calculating taxable income.

The BTCs were revenue in nature as A (Pty) Ltd acquired them as floating capital with the intention of exchanging them for goods and services.

	R
Included in gross income:	
Proceeds on disposal of the BTC (R150 000 market value of the Machine + R40 000 effectively used to pay for groceries)	190 000
Section 22(1) Closing Stock (R200 000 BTC – R110 000 disposed of to X – R29 333 disposed of to the intermediary)	60 667
Included in deductions and allowances	
Section 22(2) Opening Stock (R200 000 BTC on 1 January Year 1)	(200 000)
Section 11(*a*) Expenditure on groceries and liquid refreshments purchased from the local retailer	(40 000)
Section 12C (Cost of the machine R150 000 × 20% per year)	(30 000)
Related net inclusion in taxable income	(19 333)

* Profit on the BTC used to pay for goods purchased of R50 667 (R150 000 + R40 000 – R110 000 – R29 333`) – deduction under section 11(a) of R40 000 – allowance under section 12C of R30 000 = (R19 333)

Year 2 Year of Assessment – X

If X held the machine on capital account, X would need to calculate the capital gain or loss in terms of the Eighth Schedule and take it into account when determining whether X has a net capital gain or loss which must be included in taxable income.

If the machine is held on revenue account, X must include R150 000 in gross income. X will be able to deduct the cost of purchasing the machine under section 11(*a*), section 22 and section 23(*g*).

Year 2 Year of Assessment – Local retailer

The local retailer must include R40 000 in gross income. The local retailer will be able to deduct the cost of purchasing the groceries and the liquid refreshments under section 11(*a*), read with sections 22 and 23(*g*).

Example 10 – Means of payment

Facts:

Individual E lives in a small town where Crypto W is widely accepted by local businesses as an alternative method of payment. Individual E purchases Crypto W with the intention of using it to pay for goods and services acquired from local businesses provided that the market conditions result in a profit being realised on the disposal of Crypto W. Individual E has been researching crypto assets generally and watching the market and is confident that over the long term Crypto W's price will increase even though it is volatile and might take dips from time-to-time. Individual E uses Crypto W as a primary method of payment in the community and therefore frequently buys and exchanges Crypto W. If the use of Crypto W would result in a loss, Individual E will generally try to delay payment terms until the market turns or use fiat currency. Sometimes these strategies do not work out, and Individual E makes a loss.

Individual E hired a local landscaping company to remove a tree and cut the lawn at the house for R2 500. One unit of Crypto W was trading at a market price of R5 000. The landscaping company accepted ½ unit of Crypto W in settlement of the fee of R2 500.

Result:

Individual E's main intention may be to use Crypto W as a medium of exchange. However, there is an equal or secondary intention of making a profit when exchanging Crypto W for goods and services. Individual E frequently acquires and disposes of units of Crypto W. Consequently, Individual E is regarded as conducting a trade and must include R2 500 (the market value of the service received in exchange for 1/2 unit of Crypto W) in gross income. Through section 11(*a*) and section 22, Individual E may claim a deduction for the expenditure incurred in acquiring ½ the unit of Crypto W.

Individual E incurred expenditure in respect of the garden service fees but will not qualify for a deduction of this expenditure as it was a private expense and would not meet the requirements of section 11(*a*). Section 23(*b*) also prevents a deduction for domestic or private expenses, such as garden services at a private residence that is not occupied for purposes of trade.

The landscaping company must include R2 500 in gross income and must also consider what expenses were incurred in rendering the landscaping services. It must determine whether this expenditure meets one of the deduction or allowance sections and therefore qualifies for a deduction. The crypto asset forms part of the landscaping company's floating capital and must be accounted for as trading stock under section 11(*a*) and section 22.

4.4 Services rendered by an employee in exchange for crypto assets and crypto assets granted as a benefit or advantage in respect of employment

Broadly, paragraph (*c*) of the definition of "gross income" includes in gross income[86] any amount, including any voluntary award, received or accrued in respect of services rendered or to be rendered, or any amount[87] received or accrued by virtue of any employment or the holding of any office.

The courts[88] have held that "in respect of", as used in paragraph (*c*) of the definition of "gross income", connotes a causal relationship between the amount received and the service rendered. The same meaning is applicable in paragraph (*i*) of the definition of "gross income", as considered below.

If an amount falls within the ambit of both paragraph (*c*) and paragraph (i) (see below), the provisions of paragraph (*i*) of the definition of "gross income" apply.[89]

Paragraph (*i*) of the definition of "gross income" provides for the inclusion in gross income of the cash equivalent of any benefit or advantage granted in respect of employment or the holding of any office, as determined under the provisions of the Seventh Schedule. This inclusion in gross income comprises the cash equivalent of a taxable benefit, as defined in the Seventh Schedule, along with any amount required to be included in the taxpayer's income

86 See **4.1** for core preamble wording of the definition of "gross income".

87 Excluding amounts referred to in section 8(1), 8B or 8C.

88 *Stevens v C: SARS* 2007 (2) SA 554 (A), 69 SATC 1; ITC 1493 53 SATC 187 (T); *Stander v CIR* 1997 (3) SA 617 (C), 59 SATC 212; *De Villiers v CIR* 1929 AD 227, 4 SATC 86.

89 Paragraph (*c*)(i) of the definition of "gross income".

under section 8A. Broadly, paragraph 2(*a*) of the Seventh Schedule deems a taxable benefit to have been granted by an employer to an employee if, as a benefit or advantage of or by virtue of such employment, or as a reward for services rendered or to be rendered by the employee to the employer, any asset (specifically including any financial instrument, and a crypto asset is a financial instrument) has been acquired by the employee either for no consideration or for a consideration less than the value of such asset, as determined under paragraph 5(2) of the Seventh Schedule.[90] Thus, under paragraph 5 of the Seventh Schedule the cash equivalent of the taxable benefit that is included in gross income under paragraph (*i*) of the definition of "gross income" is the market value of the asset at the time it is acquired by the employee less any consideration given by the employee.

Example 11 – Salary received by an employee in cash and in crypto assets

Facts:

Employee A is employed by XYZ (Pty) Ltd, a software development company, at a salary of R25 000 per month. Employee A's contract specifies that the salary will be paid as R20 000 in cash, and R5 000 in crypto asset X.

Result:

The cash component of R20 000 per month is for services rendered and must be included in Employee A's gross income under paragraph (*c*) of that definition in section 1(1).

The monthly receipt of crypto asset X, valued at R5 000 is a benefit granted in respect of employment. This must be included in gross income under paragraph (*i*) of that definition in section 1(1), read with paragraph 2(*a*) of the Seventh Schedule, at its "cash equivalent" value as determined under paragraph 5 of the Seventh Schedule.

Cash equivalent = market value of crypto asset X received – consideration given = R5 000 – RNil = R5 000

Accordingly, R5 000 per month relating to crypto asset X must be included in Employee A's gross income.

XYZ (Pty) Ltd must consider, withhold and pay to SARS any applicable employees' tax (see **4.5**).

Example 12 – Receipt of a crypto asset by an employee as a long service award

Facts:

M has been employed at Groceries Galore (Pty) Ltd, a retailer, for 15 years. Groceries Galore (Pty) Ltd was aware of M's interest in crypto assets but had not ventured into the field due to financial constraints. In recognition of M's long service to the company, Groceries Galore (Pty) Ltd purchased a number of Solana at a cost of R8 000 and awarded it to M.

[90] Certain amounts are specifically excluded from being a benefit under the proviso to paragraph 2(*a*), for example, any equity instrument contemplated in section 8C. Crypto assets are not so excluded.

Result:

The receipt of Solana by M is a benefit granted in respect of employment. This must be included in M's gross income under paragraph (*i*) of that definition, read with paragraph 2(*a*) of the Seventh Schedule, at its "cash equivalent" value as determined under paragraph 5 of the Seventh Schedule.

Cash equivalent = market value – consideration given – lesser of the cost of all such assets awarded for long service during the year of assessment and R5 000.

= R8 000 – Rnil – R5 000

= R3 000

Accordingly, R3 000 must be included in M's gross income.

XYZ (Pty) Ltd must consider, withhold and pay to SARS any applicable employees' tax (see **4.5**).

4.5 The Fourth Schedule: Withholding of employees' tax by employer

Paragraph 2(1) of the Fourth Schedule requires that every resident employer or representative employer who pays or becomes liable to pay any amount by way of remuneration to any employee shall, unless the Commissioner has granted authority to the contrary, deduct or withhold employees' tax[91] from that amount and pay it to SARS on behalf of the employee.

Amounts (that would otherwise be remuneration) paid to an employee are excluded from the definition of "remuneration" in the Fourth Schedule if that employee (as defined) carries on an independent trade. The 'independent trade' exclusion contains statutory tests that, if met, override the factual position, deeming a person not to carry on a trade independently for employees' tax purposes. For example, this applies if the services required are to be mainly performed at the premises of the person who must pay for such services, or if the person who rendered or will render the services is subject to the control of any other person as to the way the duties are to be performed. [92]

The detailed facts of a particular case must always be examined but *prima facie* an employer who pays an employee an amount of remuneration in the form of crypto assets must withhold and pay over employees' tax to SARS.

4.6 Crypto arbitrage

Crypto arbitrage is a trading strategy that takes advantage of price differences for the same crypto asset across different exchanges. An arbitrage trader buys at a low price on one exchange and sells for a higher price on another exchange, profiting from the discrepancy in prices. This type of arbitrage trading is known as spatial arbitrage. Triangular arbitrage, on the other hand, exploits the price differences between three crypto assets on the same or separate exchanges.

Arbitrage trading is inherently profit-driven. Accordingly, all actions by an arbitrage trader will be on revenue account. Being of a revenue nature, profits and losses will effectively be included in taxable income.

91 As calculated under the Fourth Schedule.

92 Paragraph (ii) of the proviso to the definition of "remuneration" in the Fourth Schedule.

4.7 Earning crypto assets through mining

Crypto asset mining is described as a "proof of work" consensus algorithm mechanism for validating transactions in a blockchain.[93] A distributed set of computers reaches consensus on which group of transactions will be appended to the blockchain next. Mining requires significant computing power and, hence, investment in computer hardware and electricity. Each validating node (called a "miner") in the network uses computing power to try to be the first one to solve a mathematical problem, *that is* to validate the transaction and generate the code for purposes of adding it to prior blocks (which all other miners agree is the truth). The winning validating node ("miner") is rewarded with a newly minted crypto asset, or portion of a crypto asset, and the block's related transaction fees.

A taxpayer conducting an activity of crypto asset mining meets the definition of a person conducting a "trade".

As noted above, at the time the blockchain transaction is successfully verified, the miner is rewarded with a crypto asset or a portion of a crypto asset. The miner must include the market value of the crypto asset in gross income because the following requirements of the definition of "gross income" are met:

- Total amount in cash or otherwise – the crypto asset is an intangible asset which is given to the miner in a form other than money. The crypto asset has a market value which can be established as it can be traded between independent persons on the digital network.
- Received or accrued to – on successfully being the first person to verify the transaction, the miner is entitled to the crypto asset in return for the verification work conducted. The miner is entitled to the crypto asset and receives it for own benefit.
- The amount is not of a capital nature - the receipt or accrual of the crypto asset by a miner is of a revenue nature as it is something that the miner has deliberately worked for and is not fortuitous in nature. In addition, reward is given for the service of successfully verifying a transaction and therefore it falls within para (*c*) of the definition of gross income ("received of accrued in respect of services rendered") and would therefore have been included in gross income irrespective of whether it is of a revenue or capital nature.

For purposes of gross income, the market value of the crypto asset must be established at the earlier of the receipt or accrual of the crypto asset, which is generally when the crypto asset is added to the miner's digital wallet.

A crypto asset will be considered trading stock for the miner if it is acquired as part of their mining trade and with the intention of selling and exchanging it for profit. If it is trading stock, then sections 11(*a*) and 22 are relevant (see the example below; see also **3.2.5**). Miners must also consider any expenditure they incur, as they may be entitled to a deduction or allowance if they meet the requirements of one of the relevant sections. For example, they might be entitled to a wear-and-tear allowance under section 11(*e*) for the computers used in the "mining" process or a deduction under section 11(*a*) for electricity used in the process and salaries paid to staff to run the computers.

[93] **www.gdf.io/resources/gdf-tax-treatment-of-cryptoassets-july-2020/** in paragraph 6.a.i [Accessed 1 July 2026].

If the crypto asset was held by the miner on capital account, the provisions of the Eighth Schedule would need to be considered (see **4.1**).

Example 13 – Receipt of a crypto asset through validating transactions (mining) in which the crypto asset is held as trading stock

Facts:

T, an individual, is actively engaged in validating transactions and generating codes to add to previous blocks in a blockchain. T successfully solves the mathematical problem, which all other miners agree is correct. As the winning miner, T was rewarded with a newly minted crypto asset and the block's related transaction fees on the last day of the year of assessment. The crypto asset is held on revenue account as trading stock at the end of the year of assessment.

Result:

The newly minted crypto asset acquired by T through the process of mining gives rise to an immediate receipt or accrual and T must include the market value of this newly minted crypto asset in gross income.

In addition, T must include the crypto asset at the same market value in closing stock at year end (an addition to gross income) and must claim a deduction of the same amount under section 11(*a).*

Example 14 – Treatment of crypto asset held as trading stock

Facts:

T, an individual, is actively engaged in validating transactions and generating codes to add to previous blocks in a blockchain. During the year T successfully solved mathematical problems and validated various transactions and, in total, receiving newly minted crypto assets as a reward. The total market value on the date of receipt of the newly minted crypto assets was R300 000.

The personal computers used to run the software and solve the algorithm were acquired at the beginning on Year 1 at a cost of R160 000. T incurred electricity expenditure of R80 000 in Year 1 and R75 000 in Year 2 while running the computers.

T trades in crypto assets and usually makes a profit from selling them within a month of acquisition. T sold the crypto assets on 31 March Year 2 for R450 000.

Result:

Year 1 of assessment

	R
Gross Income – services rendered *	300 000
Gross Income – closing stock (section 22(1))**	300 000
Section 11(*a*) – acquisition of trading stock (crypto asset token)**	(300 000)
Section 11(*a*) – electricity	(80 000)
Section 11(*e*) – R160 000 / 3 years x 1 full year of use	(53 000)
Inclusion in taxable income	167 000

* The market value of the crypto assets of R300 000 (see **3.2.1**) was received for the services T performed in validating various transactions and must accordingly be included in gross income under paragraph (c) of the definition of gross income.

** The exchange of mining services for the crypto asset is a barter transaction. In the absence of circumstances indicating otherwise, the market value of the mining services and that of the crypto asset are regarded as equivalent. Consequently, the expenditure incurred in acquiring the crypto asset is equal to the value of the service. As trading stock, the acquisition of the crypto asset qualifies for a deduction under section 11(*a*) and since it is on hand at the end of the year, it must be included under section 22(1) in gross income at cost.

Year 2 of assessment

	R
Gross Income – sale of crypto asset token	450 000
Section 22 – opening stock	(300 000)
Section 11(*a*) – electricity	(75 000)
Section 11(ie) – R160 000 / 3 years x 1 full year of use	(53 000)
Inclusion in taxable income	22 000

Example 15 – Treatment of crypto asset held as trading stock

Facts:

T, an individual, is actively engaged in validating transactions and generating codes to add to the previous blocks in a blockchain. T successfully solves the mathematical problem and was rewarded with a newly minted crypto asset token on the last day of the year of assessment, that is, 28 February Year 1. The market value of the crypto asset token was R30 000.

T trades in crypto assets and usually makes a profit from selling them within a month of acquisition. T sold the crypto assets on 31 March Year 2 for R20 000.

Result:

Year 1 of assessment

	R
Gross Income – services rendered *	30 000
Gross Income – closing stock (section 22(1))**	30 000
Section 11(a) – acquisition of trading stock (crypto asset token)**	(30 000)
Inclusion in taxable income	30 000

* The market value of the crypto asset of R30 000 (see **3.2.1**) was received for the services T performed in validating the transaction and must accordingly be included in gross income under paragraph (*c*) of the definition of gross income.

** The exchange of mining services for the crypto asset is a barter transaction. In the absence of circumstances indicating otherwise, the market value of the mining services and that of the crypto asset are regarded as equivalent. Consequently, the expenditure incurred in acquiring the crypto asset is equal to the value of the service. As trading stock, the acquisition of the crypto asset qualifies for a deduction under section 11(*a*). As it is on hand at the end of the year under section 22(1), it must be included in gross income at cost. The same principle applies to any portion of the transaction fee also awarded in crypto asset.

Year 2 of assessment

	R
Gross Income – sale of crypto asset token	20 000
Section 22 – opening stock	(30 000)
Inclusion in taxable income	(10 000)

T must consider whether the ring-fencing provisions in section 20A apply (see **3.2.6**).

4.7.1 Mining partnerships

In the event miners share resources, form a mining pool, and split the reward proportionately in accordance with the partnership profit or loss sharing ratio, the tax provisions applicable to a partnership will apply to the mining partnership. This means that the same tax provisions that apply to crypto asset mining will also apply to the individual members of the partnership.[94]

4.8 Earning crypto assets through staking

The alternative to "proof of work" (see **4.7**) is "proof of stake". This method does not require significant hardware and electricity. Instead, it requires people to risk their reputation and capital (in the form of crypto assets) to help validate transactions. A validator may forfeit its stake if it validates a fraudulent transaction, or engage in other behaviour detrimental to the protocol, in terms of what is known as the slashing rules. Thus, by placing something at stake, the validators are incentivised to be honest. As a reward, the selected validator receives additional crypto assets.[95]

The discussion above on "proof of work" (mining) is also applicable to "proof of stake" as it relates to the inclusion of the market value of the crypto asset earned in gross income, as well as the treatment of trading stock under section 11(*a*) and section 22 (see **3.2.5** and **4.7**).

Example 16 – Proof of stake and subsequent sale

Facts:

P is actively engaged in validating transactions through proof of stake protocols. P was selected as a validator for a specific transaction, and after successfully validating it was rewarded with a newly minted crypto asset on the last day of the year of assessment (Year 1). The market value of the crypto asset at the end of Year 1 was R50 000. P sold the crypto asset a month later, in Year 2, for R65 000.

Result:

Year 1

	R
Gross Income – Crypto asset – service rendered	50 000
Gross income - Closing stock [section 22(1)]	50 000
Section 11(*a*) – acquisition of trading stock (crypto asset)	(50 000)
Inclusion in taxable income	50 000

[94] Section 24H.

[95] **www.gdf.io/uploads/2021/02/gdf-tax-tratment-of-cryptoassets.pdf.** in paragraph 6.a.ii [Accessed 1 July 2026].

Year 2

	R
Gross Income – Sale of crypto asset token	65 000
Opening stock [section 22(2)]	(50 000)
Inclusion in taxable income	15 000

Example 17 – Proof of stake and subsequent exchanges

Facts:

Z is actively engaged in validating transactions through proof of stake protocols. Z was selected as a validator for a specific transaction and after successfully validating it was rewarded with a newly minted crypto asset 1 on 1 January in Year 1. The market value of crypto asset 1 on that date was R50 000.

Z exchanged crypto asset 1 for crypto asset 2 on the last day of the year of assessment. The market value of crypto asset 2 received in the exchange on the last day of the year of assessment was R55 000 and it was subsequently sold for cash during Year 2 for R49 000.

Result:

Year 1

	R
Gross Income	
Services rendered - crypto asset 1	50 000
Sale of crypto asset token 1	55 000
Closing stock [section 22(1)] – crypto asset 2	55 000
Section 11(*a*) – trading stock	
Acquisition of crypto asset 1	(50 000)
Acquisition of crypto asset 2	(55 000)
Inclusion in taxable income	55 000

Year 2

Gross income - Sale of crypto asset 2	49 000
Opening stock [section 22(2)]	(55 000)
Inclusion in taxable income	(6 000)

It is possible that all or some of the crypto assets staked to enable a person to potentially be selected as a validator for transactions may not be returned to the person because of penalties imposed by a blockchain network. This will have income tax consequences depending on, amongst others, the structuring of the staking and the applicable forfeiture.

It is important to understand the detailed facts and circumstances of the relevant staking arrangement, as these arrangements are not necessarily standard. The existing provisions of the Act and case law must be applied to the facts and circumstances of staking arrangements as they relate to possible forfeiture, to determine the income tax outcome for the participants.

4.9 Decentralised finance ("De-Fi")

Decentralised finance is an alternative financial system that uses blockchain and smart contracts to provide a variety of financial services, ranging from something as "simple" as "lending and borrowing" to complex derivative transactions. This guide does not deal with De-Fi arrangements other than to state the importance of understanding the particular arrangement in detail and applying the normal tax principles to consider the income tax and CGT consequences of a particular arrangement.

4.10 Initial coin offerings, air drops and hard forks

An initial coin offering occurs when a new player wishes to introduce their crypto asset to the market. A popular method of creating a market for a new crypto asset is by airdropping the new crypto asset to existing digital wallet addresses. These distributions are often made by a blockchain start-up, usually for free, as a way of gaining attention and new followers, thereby resulting in a larger user base and a wider disbursement of coins. However, an airdrop may also be the result of some effort from the recipient, for example, performing specific tasks on or for the specific crypto asset platform.

An airdrop can also be the result of a hard fork split of a crypto asset, resulting in the creation of a new crypto asset, which is then airdropped to the holders of the original crypto asset that was subjected to a hard fork. The tax implications of hard forks are considered under **4.10.2**.

4.10.1 Receipt of an airdropped crypto asset

In determining whether a taxpayer will be taxed on the receipt of an airdropped crypto asset, the definition of "gross income" must be considered.

Generally, in the case of an airdropped crypto asset there is an amount, in cash or otherwise, that has been received by or accrued to the taxpayer. The aspect which may be subject to more debate is whether the amount received is of a revenue or capital nature. The normal income tax rules apply in making this determination and depend on the specific facts and circumstances of the taxpayer.

One of the most relevant principles in this context is that receipts or accruals are considered revenue if they are not fortuitous, but rather designedly sought and worked for.[96] Conversely, if they are fortuitous and not designedly worked for, they bear the imprint of capital. The specific facts of a particular airdrop must therefore be considered to determine what the taxpayer was required to do to obtain the airdropped crypto asset. This will establish whether the crypto asset was "designedly sought for and worked for" or whether it was fortuitous.[97] If the amount is of a revenue nature, it must be included in gross income when the taxpayer calculates their taxable income.

The nature of the airdropped crypto assets in a specific taxpayer's hands determines the "cost" to be recorded in relation to the underlying crypto asset. For someone who holds crypto assets as trading stock, section 22(4) broadly provides that if any trading stock has been acquired for no consideration, or for a consideration which is not measurable in money, the cost price of the trading stock for purposes of closing stock [section 22(1)] and opening stock [section 22(2)] is equal to the current market price of such trading stock on the date it was acquired. The matter is more complicated for crypto assets received as capital assets. Paragraph 38 would usually apply to give an asset a cost equal to its market value when a person disposes of an

[96] *CIR v Pick 'n Pay Employee Share Purchase Trust* 1992 (4) SA 39 (A), 54 SATC 271 at 280.

[97] *CIR v Pick 'n Pay Employee Share Purchase Trust* 1992 (4) SA 39 (A), 54 SATC 271 at 280; ITC 1207 (1972) 36 SATC 78 (T).

asset (this concept is defined widely and includes the creation of an asset) by means of a donation, for a consideration not measurable in money, or to a connected person for a consideration which is not arm's length. However, in relation to airdropped crypto assets, there may not be a person that, in creating the crypto asset airdropped to a taxpayer, has had any of their existing rights diminished. As a result, there may not necessarily be a person that disposes of an airdropped crypto asset. In many cases, the airdropped asset originates from the operation of the blockchain, and there is no associated diminishment of any person's rights. In those cases, paragraph 38 will not apply, and a fortuitous receipt of a crypto asset would have a cost of Rnil. Nevertheless, if the airdropped crypto asset originates in consequence of any service rendered by the recipient, the value of the service would be equal to the expenditure incurred in acquiring the airdropped crypto asset, as the exchange is a barter transaction.

Example 18 – Receipt of airdropped crypto asset based on past transactions on a blockchain

Facts:

DBD blockchain airdropped crypto assets to non-fungible token (NFT) creators, collectors, and enthusiasts who had previously conducted transactions on its DBD NFT marketplace blockchain. DBD blockchain did this as part of its campaign to grow the number of crypto assets in circulation, increase interest in and demand for the crypto asset, and enhance its market relevance and market value. Recipients were required to claim the airdropped crypto asset on DBD's website but were not required to do anything else. The airdrop helped DBD grow its social media following and more than 200 000 wallet addresses claimed the airdropped crypto asset. Individual C received an airdropped crypto asset. C already owns some crypto assets obtained from previous airdrops, which he does not actively monitor and has not, to date, disposed of any of these assets.

Result:

C was required to claim the asset on DBD's website by entering the required personal details. This "activity" was insufficient to qualify as "work" performed for the airdropped crypto asset. The receipt of the airdropped crypto asset was fortuitous and therefore does not form part of C's gross income. Accordingly, C would be justified in treating the receipt of the crypto asset as capital in nature.

Paragraph 38 is also not applicable as the airdropped crypto asset was not disposed of by a person as a donation, as a disposal to a connected person not at arm's length or for a consideration not measurable in money. Claiming the asset on DBD's website is not regarded as consideration given by C. Accordingly, as C did not incur any expenditure in acquiring the airdropped crypto asset, the asset's cost of acquisition will be Rnil.

Example 19 – Airdrop to promote crypto assets

Facts:

Blockchain Z promoted its newly launched crypto asset T by utilising recognised social media influencers and movie actors. The advertising team was of the view that having the identified influencers and movie celebrities seen to be using crypto asset T in their everyday lives would be more successful than running a conventional advertising campaign with commercials screened on TV and social media channels. Accordingly, the advertising team developed a campaign which involved airdropping the crypto asset to the identified social media influencers and media celebrities in return for them agreeing to perform a number of tasks relative to the number of crypto assets airdropped. The tasks included, mentioning crypto asset T in a minimum of six interviews over a three-month period and ensuring a discussion of at least three minutes regarding the following:

- How they've used crypto asset T
- Its benefits
- Ease of use

G, a social media influencer with 5 million followers, agreed to perform the required tasks, and in return, Blockchain Z airdropped 1 000 crypto asset Ts into G's e-wallet. The market value of one crypto asset T when it was airdropped was R500.

Result:

G performed specifically agreed tasks in return for the 1 000 airdropped crypto asset Ts. The receipt of the 1 000 airdropped crypto asset Ts was designedly worked for and is of a revenue nature. The market value of crypto asset Ts must be included in G's gross income.

It's a barter transaction, and absent any contrary indicators, the market value of the crypto asset T's is equal to the market value of the services rendered. Therefore, the expenditure incurred in relation to the crypto asset Ts acquired is equal to the market value at acquisition, namely R500 per crypto asset T acquired.

Example 20 – An airdrop based on an existing balance and fees paid on past use of the blockchain

Facts:

To boost circulation and public awareness of its crypto asset E, Blockchain E airdropped crypto asset Es to its user base that held a balance of at least 0.01 crypto asset E and had previously spent over R8 000 in transaction fees on Blockchain E. Several wallet addresses claimed the airdrop, which resulted in a measurable increase in the liquidity of crypto asset E.

D is a miner who held crypto assets as trading stock. D's crypto asset wallet had a balance of over 0.01 crypto asset E and D had paid more than R10 000 in fees on Blockchain E. D was thus eligible for an airdrop crypto asset, which D claimed. The airdropped crypto asset Es were added to D's trading portfolio as D intended to trade with them.

Result:

D neither performed any work or "activity", nor gave any consideration in return for the airdropped crypto asset. Blockchain E used specific criteria to determine the class of recipient for the airdrop: a wallet balance of more than 0.01 and fees expenditure greater than R10 000. This airdrop was designed to boost circulation and public awareness and was not intended as consideration for any activity on the part of the participants. The airdropped crypto asset received by D is therefore fortuitous and does not require inclusion in gross income.

D holds the airdropped crypto asset Es as trading stock. Notwithstanding that they were acquired fortuitously and for no consideration, D intends to trade with them on revenue account. Section 22(4) provides that trading stock acquired for no consideration or consideration not measurable in money is deemed to have been acquired at a cost equal to market value for purposes of the closing stock provisions in section 22(1) and the opening stock provisions in section 22(2). Accordingly, under section 22(4), read with sections 22(1), 22(2), and 22(3), airdropped crypto asset Es have a cost equal to its market value at the date of the receipt.

4.10.2 Hard forks

A hard fork is described as the permanent splitting of a crypto asset's blockchain as a result of a protocol change that is not backward-compatible. This means that nodes or computers running the old software cannot validate blocks created under the new rules. It represents a radical change to a blockchain's protocol, resulting in two independent blockchains and separate crypto assets going forward.

A famous example occurred in 2016 when Ethereum was hard forked to compensate investors in the DOA,[98] which had been hacked by exploiting a vulnerability in its code. This resulted in a split that created the Ethereum and Ethereum Classic chains. Once the hard fork occurs, the two crypto assets are non-fungible with each other, sharing only the pre-fork transaction and ledger history. The new crypto asset is then airdropped to holders of the original crypto asset for no consideration.

A taxpayer that receives an airdropped crypto asset as a result of a hard fork, receives a new crypto asset. Consequently, there is an amount, in cash or otherwise, that has been received by or accrued to the taxpayer. This amount would be equal to the market value of the new crypto asset received – the market value is determined based on the facts of the particular case. Another aspect that must be determined is whether the amount received is of a revenue or capital nature and therefore whether it must be included in gross income (see the principles considered in **4.10.1**).

The cost of the new crypto asset also requires consideration. If acquired and held on capital account, paragraph 38 will not apply in relation to the new crypto asset, as it was not issued by a person, and no consideration was given by the taxpayer. The creation of the asset is also not a donation, because there is no person with an intention to benefit the taxpayer. Rather, the creation of the new asset is the automatic consequence of the hard fork, an external event. If the holder of the original crypto asset acquires and holds the new crypto asset as trading stock, section 22(4) would apply to deem the cost of the new crypto asset to be equal to its market value on the date it is received by or accrued to the holder.

[98] A digital decentralised autonomous organisation and a form of investor-directed venture capital fund.

Ater a hard fork, the holder of the original crypto asset still possesses that asset. Its market value may remain the same, increase, or decrease but this is determined by factors beyond the holder's control and is not considered consideration given by the holder. Therefore, the cost of the new crypto asset will be Rnil. From the holder's perspective, receiving the new crypto asset as a result of the hard fork does not constitute a disposal of the original crypto asset. Consequently, the cost of the original crypto asset, still held by the holder after the hard fork, remains unaffected.

Example 21 – Receipt of a crypto asset from a hard fork split of a crypto asset held on revenue account

Facts:

C holds a crypto asset on a revenue account, which was purchased earlier in the year of assessment for R5 000. A hard fork occurs, splitting the crypto asset's blockchain. C receives a new crypto asset created as a consequence of the hard fork. C intends to sell this new crypto asset once a market has developed for it. At the time of the hard fork, the market value of the new crypto asset is the same as the original crypto asset. Immediately before the hard fork, the original crypto asset traded on a local exchange at R5 800.

Result:

The receipt of the newly created crypto asset by C as a result of the hard fork does not constitute gross income for C. This is because it was fortuitous and is not a receipt of a revenue nature.

C acquired and holds the new crypto asset as trading stock, even though it was acquired fortuitously, because C's intention is to sell it. Section 22(4) provides that trading stock acquired for no consideration, or for consideration not measurable in money, is deemed to have been acquired at a cost equal to its market value. This applies for purposes of the closing stock provisions in section 22(1) and the opening stock provisions in section 22(2). Accordingly, under section 22(4), read with section 22(1), (2) and (3), the new crypto asset has a cost equal to its market value on the date it is acquired, which is R5 800.

The cost of the original crypto asset remains R5 000 and is not altered by the hard fork and the resulting receipt of the new crypto asset.

Included in calculating taxable income

	R
Closing stock [section 22(1)]	
Original crypto asset	5 000
New crypto asset received as a result of a hard fork	5 800
Section 11(*a*)	
Original crypto asset purchased during the year of assessment	(5 000)
Opening Stock:	
Section 22(4) – "opening stock" new crypto asset	(5 800)

Example 22 – Receipt of a crypto asset from a hard fork split of a crypto asset held on capital account

Facts:

Z holds a crypto asset on capital account which Z purchased previously for R15 000. A hard fork occurs, resulting in a split of the crypto asset's blockchain and the creation of two crypto assets; the original and a new one. Z receives the new crypto asset created from the hard fork which Z also holds on capital account.

Result:

The receipt of the newly created crypto asset by Z because of the hard fork does not constitute gross income for Z. This is because it was received fortuitously and is therefore not a receipt of a revenue nature.

The cost of the new crypto asset is Rnil, as Z gave no consideration for the new crypto asset. Paragraph 38 is not applicable as no consideration, as opposed to consideration which is not measurable in money, was given. The receipt is also not by virtue of a donation and the blockchain does not qualify as a person that disposed of an asset.

The cost of the original crypto asset remains R5 000 and is not altered by the hard fork and the resulting receipt of the new crypto asset.

A soft fork can be viewed as a backward-compatible software update for a crypto asset blockchain. A soft fork does not result in a split of the blockchain and accordingly does not result in the creation of a new crypto asset. Therefore, generally, a soft fork does not generate a tax event.

5. Donations tax

The term "donation" is defined in section 55(1) as "any gratuitous disposal of property including any gratuitous waiver or renunciation of a right" and is expanded on in section 58(1) if property is, in the opinion of the Commissioner, disposed of for inadequate consideration. Subject to any exemptions,[99] donations tax is levied on the value of any property disposed under any donation by a resident donor.[100] Donations tax is levied at –

- a rate of 20% on the value of the property that is disposed of under a donation to the extent that the value of the property donated, and the value of all property disposed under a taxable donation on or after 1 March 2018 (excluding the current donation), does not exceed R30 million; and
- a rate of 25% to the extent such aggregate value exceeds R30 million.[101]

The donor is liable for the payment of donations tax, however if the donor fails to pay such donations tax within the prescribed period, the donee is joint and severally liable for the tax.[102]

[99] For example, casual gifts made by a donor other than a natural person are not subject to donations tax provided their values do not in aggregate exceed R10 000 during any year of assessment. In contrast, casual gifts made by a donor who is a natural person are not subject to donations tax provided their values do not in aggregate exceed R100 000 during any year of assessment. See section 56 for further detail.

[100] Section 54.

[101] Section 64.

[102] Section 59.

The term “property” is defined as “any right in or to property movable or immovable, corporeal or incorporeal, wheresoever situated”.[103] A crypto asset constitutes “property” and may be subject to donations tax if disposed of under a donation.[104]

For example, if A gives B a crypto asset as a gift, donations tax must be considered since the gift is a gratuitous disposal of property by A to B. A must consider whether and to what extent any of the exemptions in section 56 are applicable and in the event any donations tax is payable, A must pay the donations tax to the Commissioner by the end of the month following the month in which A gave B the gift.[105]

6. Compliance and documentation

Taxpayers are required to comply with all the tax laws for each year of assessment.

6.1 Income tax return

The Commissioner annually issues a public notice in the *Government Gazette* of the persons that must furnish an income tax return.[106]

A return must be a full and true return[107] and be signed by the taxpayer or by the taxpayer’s duly authorised representative. The person signing the return will be regarded as being cognisant of the statements made in the return.[108] A full and complete tax return requires a taxpayer to, amongst others, appropriately disclose and take into account income, expenses, profits, losses, capital gains and capital losses arising from crypto asset transactions and in some cases the amount of crypto assets on the balance sheet. For a detailed consideration of the completion of the tax return the external (operational) guides for companies, individuals, trusts, and deceased and insolvent estates are available on **www.sars.gov.za**.

Non-receipt of an income tax return by a taxpayer does not negate the obligation to submit one.[109] A person who wilfully or negligently fails to submit a return or document to SARS is guilty of an offence and, on conviction, is subject to a fine or imprisonment for a period not exceeding two years.[110]

6.2 Provisional tax

Provisional tax is not a separate tax from income tax. Instead, it is a method of paying income tax at least twice during the year of assessment, thereby preventing a taxpayer from having to pay a large lumpsum once a year on assessment. Depending on the circumstances, a taxpayer may make a third or “top-up” payment to avoid interest.[111] Provisional tax payments are based on an estimate of taxable income for the year of assessment. This estimated taxable income calculation must, amongst other considerations, appropriately take into account crypto asset transactions that occur during the year. On assessment, provisional payments are off-set against the liability for normal tax for the applicable year of assessment. If there is a

[103] Section 55.
[104] See sections 54 – 64 for detail.
[105] Section 60.
[106] Section 66(1). See also section 25 of the TA Act.
[107] Section 25(2) of the TA Act.
[108] Section 25(3) of the TA Act.
[109] Section 25(4) of the TA Act.
[110] Section 234(2)(*d*) of the TA Act.
[111] Interpretation Note 1 “Provisional Tax Estimates”.

shortfall, the taxpayer will need to make an additional payment, Conversely, if there is an excess, a refund will be due to the taxpayer.

It is important for taxpayers to determine if they are provisional taxpayers so that, if they are, they can comply with their statutory obligations by submitting the required provisional tax returns and making the necessary provisional payments on time.[112]

6.3 Record-keeping

A taxpayer must maintain records, books of account, or documents relating to any crypto asset transactions. Retaining such records will assist the taxpayer in fulfilling the requirements of a tax Act,[113] and in satisfying SARS that the taxpayer has complied with the applicable legislative requirements. These records will also assist the taxpayer in discharging his or her burden of proof, for example, to demonstrate that an amount for which the taxpayer is claiming a deduction in respect of the purchase of a crypto asset meets the requirements for deduction under a relevant section in the Act, or that the market value they are using as proceeds for a crypto asset traded for another crypto asset is appropriate.[114]

The necessary records must be kept for a period of at least five years from the date of the submission of the return.[115] The requirement to keep records, books of account or documents for a tax period also applies to a person who is not required to submit a return but has, during the tax period, received income, incurred a capital gain or capital loss, or engaged in any activity that is subject to tax (or would be subject to tax, but for the application of a tax threshold or exemption).[116] In this specific case, the necessary records must then be kept for five years from the end of the relevant period. However, records, books of account, or documents that are relevant to an audit or investigation that a taxpayer has been notified or is aware of, or are relevant to an objection or appeal that has been lodged, must be retained until the audit or investigation is concluded, or the assessment or decision becomes final, or the applicable five-year period has elapsed, whichever is the later.[117]

A return[118] includes any form, declaration, document or other manner of submitting information to SARS that incorporates a self-assessment or forms the basis on which an assessment is to be made by SARS.

6.4 Disclosure of information

General

SARS is empowered, under the TA Act, with a wide range of data and information collecting powers, including –

- income tax returns (see **6.1**);
- third party data returns;
- inspection, verification, audit, and criminal investigation;
- request for relevant information from the taxpayer and other persons; and

[112] See the definition of “provisional taxpayer” in paragraph 1 of the Fourth Schedule. See also Interpretation Note 1 “Provisional Tax Estimates”.
[113] Section 29 - 33 of the TA Act.
[114] Section 102 of the TA Act.
[115] Section 29(3) of the TA Act.
[116] Section 29(2)(*c*) of the TA Act.
[117] Section 32(*a*) of the TA Act.
[118] The term “return” is defined in section 1 of the TA Act.

- conducting enquiries.

Crypto-Asset Reporting Framework

On 10 November 2023, a Joint Statement titled "Collective engagement to implement the Crypto-Asset Reporting Framework"[119] was issued by South Africa and several other countries.[120] The countries welcomed the new international standard on automatic exchange of information between tax authorities developed by the Organisation for Economic Cooperation and Development (OECD) – the Crypto-Asset Reporting Framework (CARF). The CARF aims to enhance the ability of tax authorities to ensure tax compliance and clamp down on tax evasion, which reduces public revenues and increases the burden on compliant taxpayers. The countries to the Joint Statement expressed an intention to work towards transposing the CARF into domestic law and activating exchange agreements in time for exchanges to commence by 2027, subject to national legislative procedures where applicable.

Regulations in relation to the CARF were gazetted on 28 November 2025.[121] The date of implementation is 1 March 2026. Very broadly, Reporting Crypto-Asset Service Providers (RCASP) are required to collect and report detailed data on transactions involving crypto assets to their relevant tax authority, which will then exchange this data with other tax authorities. A RCSAP is –

> "any individual or Entity that, as a business, provides a service effectuating Exchange Transactions for or on behalf of customers, including acting as a counterparty, or as an intermediary, to such Exchange Transactions, or by making available a trading platform".

A consideration of the CARF and the regulations are outside of the scope of this guide. They are mentioned for completeness to create an awareness of their existence so that those potentially impacted can seek additional information. Taxpayers wishing to obtain more information about the CARF, may consult the SARS FAQs on Crypto-Asset Reporting Framework Regulations.

[119] **www.sars.gov.za/media-release/collective-engagement-to-implement-the-crypto-asset-reporting-framework/** [Accessed 1 July 2026].

[120] Countries to the Joint Statement: Armenia, Australia, Austria, Barbados, Belgium, Belize, Brazil, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Norway, Portugal, Romania, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the United Kingdom, and the United States of America; the Crown Dependencies of Guernsey, Jersey, and Isle of Man; and the United Kingdom's Overseas Territories of the Cayman Islands and Gibraltar.

[121] **www.sars.gov.za/legal-counsel/secondary-legislation/regulations/** [Accessed 1 July 2026].