

effective. Often auditors end up focusing their efforts on verifying the principles of legality and economy, leaving aside the process of execution as a whole. They analyse a project from its conception to its results, without considering whether or not it fulfilled the proposed objectives within society.

The best way to efficiently control public works through audits is through multidisciplinary teams, capable of analysing all variables and factors of the project. Ideally, the team might include not only accountants or auditors but also engineers, lawyers and economists. We believe that many problems might already begin to appear during the bidding phase, since a great number of problems detected in the past can be traced back to a lack or low detail of documentation. Improper changes during

the rest of a project's execution might also be warning signs to consider.

The civil construction sector suffered the most from the global financial crisis and from the political scandals in Brazil. Therefore, in order to grow again, one must consider and support the parameters of control, for total transparency and technical efficiency. It is also important that the audit should not only be performed at the end of a project, but also at the beginning and for the duration of the activity, since many relevant items relating to quality, budget and technical specifications can only be clearly verified if analysed together with the progress of the contract.

We conclude that the role of audit in the Construction Works sector can bring about greater transparency, efficiency and reliability to all processes,

and would therefore be the best way to regain the confidence of the government and investors, as well as the Brazilian population as a whole.

GGI member firm

Maciel Auditores

Auditing & Accounting

Porto Alegre, Brazil

T: + 55 51 40071219

W: www.macielaudidores.com.br

André Henrique

Gaspar de Oliveira

E: [licitacoes](mailto:licitacoes@macielaudidores.com.br)

@macielaudidores.com.br

Luísa Zanini da Fontoura

E: [internacional](mailto:internacional@macielaudidores.com.br)

@macielaudidores.com.br

Tax treatment of cryptocurrencies such as Bitcoins in Germany

By **Oliver Biernat**



Oliver Biernat

Bitcoins & Co. flying high

The rapid rise in the price of bitcoin and other crypto currencies has attracted a great deal of media attention. The blockchain technology is regarded by many as trend-setting. In recent years, an increasing number of people have traded, exchanged or paid with cryptocurrencies. Mining blocks is not only carried out by large investors but also by IT-affine private individuals. This raises several questions. On the one hand, the

question of whether a trading or private activity exists and, on the other hand, whether and, if so, how profits and sales are taxed.

Tax risks in connection with the trading or mining of cryptocurrencies

The German tax offices usually assume that profits are taxable. Not declaring profits from trading or mining cryptographic currencies may be tax eva-

sion. As it is known that many Bitcoin investors have made substantial profits, the tax authorities could make collective requests to the trading platforms to obtain information about the traders and their profits. In the U.S., it has already been reported that a well-known trading platform has issued 13,000 records concerning bitcoin investors to the Internal Revenue Service (IRS).

Trading or private activity?

For registered traders and corporations trading or mining in cryptocurrencies, all transactions are commercial and must be declared. Anyone who trades Bitcoins as a private individual often does not suspect that he can exercise a trade with it. The border between trade and private activity is blurred. Section 15 (2) sentence 1 of the Income Tax Act regulates this:

An independent, sustainable activity undertaken with the intention of making a profit and presented as a participation in general economic circulation is a commercial enterprise if the activity is not to be regarded as an agricultural, forestry, liberal profession or other independent work.

- Independence should already be fulfilled if you operate your miner yourself with native bitcoin clients or join forces with others in a mining pool.
- An activity is sustainable if it is designed for repetition, i.e. if further business is planned. So anyone who finds a block by chance because he runs a graphics card for test purposes is not acting sustainably. If, on the other hand, you install countless graphics cards in your server in order to mine permanently, you are acting sustainably.
- The participation in the general economic circulation will usually be given, e.g. if the use of the Bitcoins for paying or exchanging an interaction with other persons takes place.
- As a rule, it will therefore depend on whether the intention is to make a profit or whether it is a mere hobby,

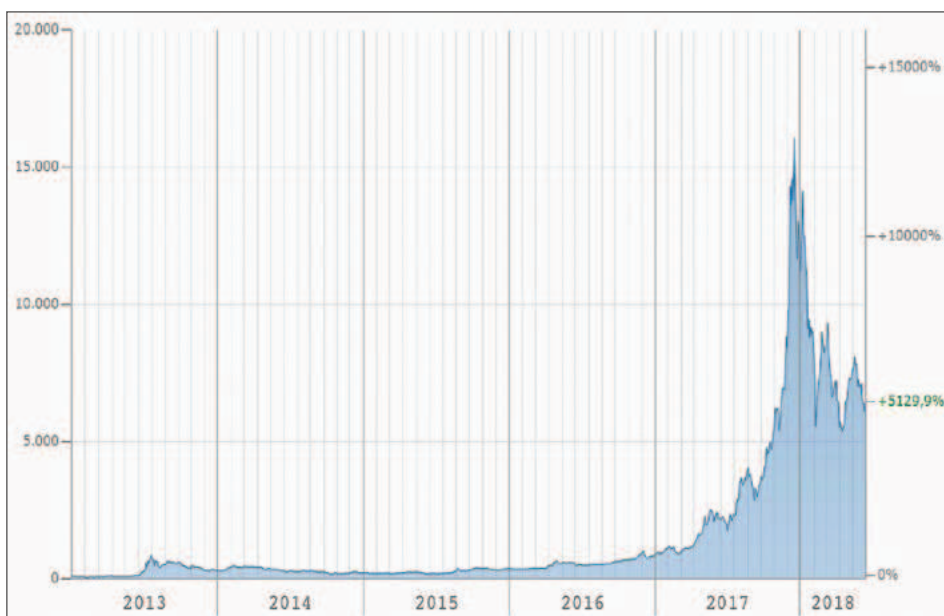


Chart Bitcoin-Euro, 5 years (as per 30 May 2018)

which is irrelevant from a tax point of view. The costs associated with mining or trading should also be taken into account. The difficulty is to estimate the turnover, since the prices of the cryptocurrencies fluctuate strongly.

If the above-mentioned requirements are met, a trading activity will generally exist in the case of mining and cloud mining. If there is a trading activity, private individuals or their tax advisors should register a trade with the responsible municipality and report the activity to the tax office.

Value added tax treatment

Value added tax is to be applied, if at all, only to entrepreneurs. The ECJ already ruled in 2015 that sales of Bitcoins fall under the tax exemption for foreign exchange under EU law. However, since bitcoins are not considered legal tender, uncertainty still prevailed.

On 27 February 2018, the German Federal Ministry of Finance expressed its opinion and confirmed that when conventional currencies are exchanged for units of the so-called virtual currency bitcoin and vice versa, this is a service which falls under the exemption of Article 135(1)(e) of the VAT system directive,

i.e.:

- The exchange of Bitcoin is VAT-exempt.
- The use of Bitcoin as a fee is not taxable
- The services provided by miners are not VAT liable.
- If providers demand payment of fees for the digital wallets, these services are taxable if the place of performance is in Germany.
- If the operator of a trading platform makes his website available to market participants as a technical marketplace for the acquisition or trading of Bitcoin a tax exemption according to § 4 No. 8 UStG is out of the question. However, if the operator of the platform purchases and sells Bitcoin as an intermediary in his own name, the tax exemption according to § 4 No. 8 letter b UStG is applicable.
- The exchange of virtual currencies for legal tender and vice versa is exempt from VAT. This does not apply to virtual play money.

Income tax treatment

a) Trading by private investors

Bitcoins are treated as intangible assets under income tax law. If these are sold, private capital gains may occur. A sale also exists if cryptocurrencies

...next page

are used as means of payment, sold against the euro or exchanged into other cryptocurrencies via a trading platform. If Bitcoins & Co. were acquired at different dates and prices, the FIFO method must be used. Capital gains of up to EUR 600 per calendar year remain tax-free. Capital gains in excess of this are only taxable if the period between acquisition and sale is less than one year. The investor's individual tax rate applies and not the final withholding tax rate.

b) Mining by private investors

Private, occasional mining can be classified as a hobby that is insignificant from a tax point of view. In the

case of the sale of cryptocurrencies that have been extracted within one year, there is also no private capital gains, as there was no acquisition, but own production.

c) Trading activity

Anyone who meets the above criteria and is classified as a trader has income from a business and must document all sales and expenses. This applies to both mining and trading in cryptocurrencies. In this case, profits are always taxable regardless of holding period and amount.

Further information can be found at www.benefitax.de.

GGI member firm

Benefitax GmbH

Advisory, Auditing & Accounting,
Corporate Finance, Fiduciary &
Estate Planning, Tax

Frankfurt / Main, Germany

T: +49 69 2562 27 60

W: www.benefitax.com

Oliver Biernat

E: o.biernat@benefitax.de

A third of UK SME owners consider their own management team a barrier to growth

By Michael Davidson

More than one in three (35%) business owners in the UK fear that their management team will cause them to hit a growth ceiling. Their concerns are legitimate – over half (53%) of management teams have never helped grow a business prior to the one they now work in.

Business owners and the teams that support them have to work hard to put the planning and communication in place that can overcome the challenge of experience and unleash their businesses' growth potential. According to research conducted among 500 UK SMEs by top 15 chartered accountants

Haines Watts, there are several obstacles to overcome:

Poor planning

More than four fifths of business owners (84%) are only able to spend between 1-10% of their working week planning for the future. In contrast, business owners who are able to step back and focus predominantly on planning are more than twice as likely to run fast growth businesses (annual growth greater than 15%). Despite that, these strategic leaders only constitute 9% of UK business owners.

On the other hand, SMEs with low

growth (less than 5%) are less likely to have a full strategic plan and are more likely to describe their business plan as nothing more than a financial forecast for the bank - true for more than half (53%) of low-growth SMEs.

Failure to communicate

Despite almost half of business owners lacking trust in their management teams, the teams themselves don't realise that trust isn't there. Four fifths (83%) of senior managers believe they fully understand the business owner's goals and even greater numbers (87%) hold the often false belief they would