

# The Taxation & Regulation of Cryptocurrencies: The Webinar's Transcript

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## Taxing & Regulating Cryptocurrencies & Blockchain Technology: A Webinar

Thursday, August 30 at 10 a.m. London BST



# Our panelists were:

- Dr. Charalambos Savvides, Law Lecturer, University of Nicosia, and Managing Director, Ch. P. Savvides & Associates LLC, Cyprus
- [Anna Tsabari](#), Tax Lawyer, [Ampeli Tax Law Offices](#), Israel
- [Thomas Jacobsen](#), Managing Director, [Papilio Services Ltd.](#), Malta
- [Nikola Korbar](#), CEO, [Center for Economic Research](#), Serbia
- [Dmitry Zapol](#), International Tax Advisor & Partner, [Interfis](#), UK

## Introductory Remarks

**MATEO:** Welcome to Taxlinked's latest webinar. Today, we're actually taking a look at a very hot topic in the world of international tax, I guess. We're going to look at the taxation and regulation of cryptocurrencies and blockchain technology. Let me get some admin issues out of the way to begin with.

First of all, this webinar is being recorded. We're going to have a recording available for all of you shortly after the event. We're also going to have the full transcript. So, for those of you who are missing this and would prefer to read about what's been said today, you'll be able to read it as a full transcript.

Also, keep in mind this is the first Taxlinked webinar in which you're eligible to receive CPD credits. Keep in mind that the system tells us, whether you are actually paying attention or not. So, make sure you're paying attention for the full hour, hour and 15 minutes if you want to receive the CPD credits. So, just keep that in mind.

Also, if you have any questions for our panelists as you listen to what they're saying, the GotoWebinar control panel has a chat section or a question section. Submit the questions there, I will receive them and I will do my best to incorporate them into the discussion.

We have 10 to 11 questions that we need to discuss today. We have five per panelists so we have plenty of material to cover. So, I guess without further ado, I'm going to ask each one of you to introduce yourselves. Just give us a brief background as to who you are, what you do, and then we'll get started with our 10 questions. So, Anna, please.

**ANNA:** Hi. I'm glad to participate in this webinar. It's really important to discuss cryptocurrency taxation from the international perspective. And thank you Mateo and Taxlinked for this opportunity.

And actually, about us, Ampeli Tax Law Office is one of the leading Israeli tax law firms, and our areas of experience include international taxation, income tax, VAT, Israeli real estate taxation, high-tech, and in the last two years, cryptocurrency taxation.

I am an Israeli tax lawyer since 2011 and I joined Ampeli Tax Law Offices before two years. Before that, I have gained extensive experience in various fields of taxation during former employment at leading tax law firms, as well in Ernst & Young, Israel. And my specialization is international tax and the cryptocurrency taxation.

**MATEO:** Thank you very much, Anna. Thomas.

**THOMAS:** Hi everyone. Welcome to this webinar. My name is Thomas Jacobsen. I am a lawyer by profession and education with a law degree from Norway in Oslo. But I've lived and worked in Malta for the last 21 years. In 1997, I spent 10 years with PricewaterhouseCoopers before branching out and setting up my own business.

We're a company service provider in Malta. We have a license from the Malta Financial Services Authority to provide company services, and also to provide fiduciary services, trustee services, and foundation services. And we're involved in helping persons setting up the companies, other entities, trusts, foundations and what have you in Malta. We also provide tax advice and we provide all relevant administration and compliance services like bookkeeping, like VAT, like income tax, and all the works. So, very briefly about me.

**MATEO:** Thank you, Thomas. Charis.

**CHARIS:** Hi everybody. Many congratulations to Mateo for the great organization and I'm sure you will all enjoy this webinar. My background is I'm a lawyer and practitioner, also lecturer in the University of Nicosia.

Let's start with my daily practicing field. I'm basically a corporate lawyer. I did my studies in Greece and then postgraduate studies and PhD in England in the field of competition law. My law firm specializes in all aspects of corporate law and more specifically in the field of corporate litigation, corporate administration, and also advising to a range of more contemporary, let's say, structures like funds. Also, I'm practicing in the field of cryptocurrencies, advising clients specifically in the field of ICOs.

In terms of my academic career, I'm teaching in the University of Nicosia, as I said previously. I'm also teaching the course of Regulation in Digital Currencies in the University of Nicosia. It's a top, top priority in the University of Nicosia to promote educationally, academically the field of blockchain technology including, of course, digital currencies. So, I'm really happy that I am working on a daily, almost, basis on all kind of developments that we have around digital currencies, and specifically in regulation, which is something that currently attracts a lot of interest because when we talk about regulation in digital currencies, I'm not so sure if there is any content, specific content to discuss because everything is now in the process of drafting and development and so on. So, this for the moment and I'm sure that we can share more later on.

**MATEO:** Thank you, Charis. Dmitry.

**DMITRY:** All right. Hello. Good morning, everyone. My name is Dmitry Zapol. As you can tell by my name, I'm originally from Russia. I studied law in England, but I had about five years work experience in Russia before I moved to the UK. And I qualified from being a lawyer to a tax adviser, and since 2010 I have been with IFS Consultants.

We're a London based private boutique, if I may call it. We provide cross-border tax and business structuring advice to entrepreneurial individuals. We work with business owners and with their businesses and with their related issues regarding cross-border corporate and individual tax structuring. I do work a lot with people who speak Russian, Ukrainian, Kazakh, well, Russian. But, of course, we work also with clients from all over the world.

We have seen a major increase in the number of cryptocurrency transactions recently, especially by individuals. We have not seen that much interest in this field for the companies. But now, as certainly the technology is becoming more mature, I'm sure we will see it more often. And I'm very looking forward to hearing the views of other panelists on this matter. Thank you.

**MATEO:** Excellent. Thank you, Dmitry. And last but not least, Nikola.

**NIKOLA:** Hello everyone. My name is Nikola Korbar from Belgrade, Serbia. I'm the CEO of Center for Economic Research, Belgrade, and I'm the only person who is not into taxation law on this webinar.

I started doing cryptocurrency in January 2016. I founded the first Serbian educational platform, DigitalMoneyPulse. And a year later I merged with the company, which has now incorporated both cryptocurrency and its original business, which is usually trainings for risk management, internal audit, forensic audit and digital forensics. And we have also now expanded two full end-to-end ICO services, blockchain development, and organizing of conferences and educational events for all of our fields of expertise, I would say.

Now, it is almost more than two and half years in the cryptocurrency business. We have seen a lot of things developing with the prices and everything. Now we are more focused on blockchain projects and literally stable projects, which have some real usability and real value in favor of mostly speculative cryptocurrency projects like we have seen them fail in the last year. Approximately a hundred-plus coins have now, are now official dead so we've got to refrain from working with those entities. So, that's the shortest introduction I could make.

**MATEO:** Excellent. Thank you very much to all for your introductions. I guess we'll get started into, I guess, the meat of this webinar.

The first question is a general one to kind of get an understanding as to how your jurisdiction classifies cryptocurrency and how does your jurisdictions' tax authority treat cryptocurrency today. Let's start with Anna with your opinion from Israel.



## Question 1: How does your jurisdiction classify cryptocurrency and how does your jurisdictions' tax authority treat cryptocurrencies today?

**ANNA:** Okay. You know, similar to most jurisdictions, in Israeli market there was uncertainty regarding the classification of cryptocurrency, until the final circular of the Israeli Tax Authority was issued in the beginning of this year. The Israeli Tax Authority determined that cryptocurrency is an asset and they could not be treated as means of payments or securities.

The authority determined also that any commercial activity that would be defined as such, according to commercial test described in the Israeli case law, will be taxed as a business activity according to tax brackets and will include national insurance payments. In the result, 60% commercial activity and 25 gains tax.

A business test according to Israeli case law examines the nature of asset, business frequency, holding period, taxpayer's knowledge, mechanism, development and improvement of asset, volume of activity and overall circumstances test. But we all understand that these commercial tests are not compatible with today's digital reality and are not compatible with the crypto-industry. In light of this, we're faced with the situation in which most of crypto-players may be classified as conducting business activity and exposed to 60% tax.

Moreover, recently, tax authority officials have issued demands to the members of Bitcoin community in Israel claiming that they are running a business activity. We believe that the high probability of digital currencies' ability to trade in mobile devices, surprising and fast market growth in 2017, coupled with the ongoing legal uncertainty regarding the status of digital currencies, reinforce the conclusion that most of crypto-players do not conduct commercial activity and should be taxed only for gain.

**MATEO:** Thank you, thank you, Anna. What about Malta, Thomas? What's Malta's take on this?

**THOMAS:** Well, I mean, I guess the favorite lawyer's answer is it depends. For the purposes of the Virtual Financial Assets Act, cryptocurrencies are defined as DLT assets or Distributed Ledger Technology assets. DLT assets include virtual tokens, virtual financial assets, electronic money, and financial instruments that are dependent on or that utilizes distributed ledger technology. So, that's one sort of definition, if you want, or classification.

And then, if you go to the tax element of how do we deal with cryptocurrencies when it comes to VAT or income tax, then it depends on the use or the reason, for example, issuing or what you're issuing. So, we don't really have any prescriptive rules when it comes to taxation, but we look at the European Central Bank statement in 2012, with regards to Bitcoin, which defined Bitcoin as a virtual currency scheme.

We have an ECJ ruling in 2015, the Hedqvist ruling, which defined Bitcoin as currency and not commodity. And therefore, with regards to VAT, it exempts trading in Bitcoin type of cryptocurrencies from VAT because it's an exempt transaction relating to currency, banknote, or coins used as legal tender notes.

And then, with regards to income tax, again it depends. It more than depends on whether you fall under the capital gains position or whether you can treat this as trading. You will need to look at how this is done. You will need to look at how often you're dealing with the currency, et cetera, to distinguish between capital gains and trading.

The distinction is very important and very draconian in the sense that if you're trading you would be subject to income tax, but if you are investing in a currency and then sell it or forget about it and sell it after three years, the capital type of transaction and then the zero tax. So, it's an important distinction to find out what you're doing.

Now, for example, with regards to ICOs and the proceeds of ICOs, it again depends on what you're issuing. Are you issuing a token, which can be defined as a security and, therefore, are you issuing equity? Are you issuing a redeemable token and therefore it would be seen as a liability? Or are you issuing utility tokens and therefore you treat this as revenue? So, a number of different scenarios with a number of different results.

**MATEO:** Thank you, Thomas. Charis' perspective from Cyprus or a more generalist perspective too.

**CHARIS:** Yeah, yeah. What I was about to say is that maybe it's better for me to talk about other jurisdictions rather than Cyprus because it's like we are empty. No definition, no regulation means no tax classification. So yeah, I mean, the situation in Cyprus is still very unclear, very vague.

According to the Central Bank of Cyprus back in 2014, cryptos, and specifically Bitcoin, they said is not illegal. But at the same time, it's not subject to any control or regulation. So, the same applies, as Thomas said before, in terms of how you define the crypto assets, either as a security or as a utility.

And then, after the definition, a range of legislations come up and should give the answer in regards to taxation. But, at the moment, there is not much to say about how the tax authority treats cryptocurrency in Cyprus because, in the absence of any clear regulation, nobody gives a clear answer. I'm talking about tax authorities, of course. So, I understand from my experience that if we conclude that this is, for example, a utility, then normal VAT rates apply, and so comes in regards to the tax, with the revenue, with the income tax.

So, now another thing that I think it is important to say about Cyprus because it is a jurisdiction that attracted a lot of interest in the area of cryptocurrencies because of the University of Nicosia, as I mentioned before. Surprisingly, the authorities, the government here is still very, very slow in giving a clear response to this global trend and the need to have specific regulations. And this explains the reason why even in the banking sector we face severe difficulties in accepting any kind of transactions in the field of cryptocurrencies. But I understand we will come later on to this when we discuss maybe about the banks.

So, in terms of tax authorities, as I said, the overall conclusion at the moment, pending of course the discussions that have just begun in the Parliament, where all stakeholders have been invited to give their opinion on how to treat these in a uniform way in our jurisdiction. So, pending this, the situation is very unclear, no clear answer, and it's still a matter of whether you classify this as a security or as a utility, and then the normal regulations that should apply.

**MATEO:** Thank you, Charis. I know Nikola is going to have a very similar answer to yours because I spoke to him about Serbia. So, Nikola, you want to chip in as to what's going on in Serbia with cryptocurrency?

**NIKOLA:** I wish the situation would be different, but I have to agree with you. Our regulations haven't touched the subject yet, at least, not nearly as much as they should be. For example, cryptocurrency mining is not regulated at all. It's not recognized as any form of profitable business. So, you can actually start a company for cryptocurrency mining in the classification as other IT services or computer like database running and that's it.

For example, cryptocurrency is actually not recognized as an asset at all. For example, if you have purchased the Bitcoin for \$1 and sold it in December or January for \$18,000, as long as you keep that profit in other cryptocurrency, the state doesn't actually recognize that you actually made any profits. Only if you have sold that Bitcoin and converted it to fiat currencies and actually had a payout, you are then liable for income tax.

Some people can actually do it as a capital gains tax. It's actually more to your knowledge of the local laws. But, generally, that is that the situation. For example, if you want to use cryptocurrency as a payment method, you can use it, for example, between one company and the other. It's used as compensation. So, for example, I'm purchasing from you, I don't know, a set of chairs for my office with a desk, which costs, for example, five thousand Euros in Dinars, the Serbian currency, and I pay you in Bitcoin or Ethereum or Dash or any other cryptocurrency. We actually have to do compensation. So, you value my coins in the exact same amount as I value your furniture. And you have VAT if both companies are engaged or are at least one of them. VAT is also put on that and that is actually the only tax that the state can actually take is the value-added tax, which is 20% in Serbia.

And if you want to do a payment, for example, if you want to pay with Bitcoin in a restaurant, then you actually need an intermediary who will convert that the Bitcoin into Serbian Dinars. So, that is the practice. There are approximately a dozen companies, cafes, or restaurants in Serbia that actually offer that kind of service.

**MATEO:** Excellent. Thank you, Nikola. Last, but not least, Dmitry, your perspective from the UK, from Russia.

**DMITRY:** Well, it will be difficult to add anything to what's already been said, and it's kind of a blessing to be the last speaker because the UK in a way follows the trend in the sense that there's hardly any official regulation of the cryptocurrency activity.

Officially, we have one brief issued by the Revenue back in 2014 and also some official explanation of how cryptocurrencies are treated from the capital gains tax point of view. Practically speaking, just like other panelists have mentioned, the UK follows the general trend with regards to the VAT that most Bitcoin and cryptocurrency transactions do not cause any VAT consequences. And, with regards to using such assets in their business activities of companies and individuals, HMRC widely say that whether any profit or gain is chargeable or any loss is allowable will be looked at on a case-by-case basis taking into account their specific facts.

What can be said is that normally such assets are treated as assets and not as currency, and any income loss is calculated by reference to a Pound sterling. From my personal experience, we've seen a few people who would invest in Bitcoin and either do high-frequency trading on a day-to-day basis or would hold onto them as investments.

I think my colleague from Cyprus said that—I think from Malta—about the distinction between trading and investment. If you are trading in Bitcoin, which whenever we're talking about high stakes or high-frequency transactions then, of course, this person would be liable to income tax, which in the U.K. can reach up to 25%. Whereas if they are investing, then it will be subject to capital gains tax, which is 20%. The threshold in this case is fairly high. Unless the person is a broker, pretty much, even up to 100 transactions per day would still be considered as investment as opposed to trading.

However, the problem arises when such person buys themselves different currency pairs. They keep changing Bitcoin or Ethereum or any other coin, etcetera, because every time this transaction is conducted, you must convert it to Pound sterling and calculate the loss or the gain.

And when we're talking about people who are not very good at keeping records of every such exchange, then as accountants and bank advisers, they must go through literally thousands of exchange exercises, which dramatically increase the cost of the services required. And I'm sure we will be covering this in our later discussion about people claiming their remittance basis. We'll touch upon it later.

So, to conclude, the UK does not have that much tax regulation on the matter, and we're mostly relying on a 2014 document. Bitcoins and other crypto assets are treated as assets normally, and any transactions and the tax consequences are calculated by reference to the exchange rate at the time to a Pound sterling. And, of course, VAT applies just like it applies across Europe.

**MATEO:** Thank you, Dmitry. Okay. Let's jump into a following series of questions. Let's look at the selling of a crypto asset in greater detail. I'm going to combine two of the questions that we have here. I know the first one was

one submitted by—I think these were both submitted by Dmitry, if I'm not mistaken. But the first one is the question it's a question territoriality. When you are selling a crypto asset, where is it located? And secondly, are receipts from the selling of a crypto asset income or capital? Thomas, you want to get it started there?



## Question 2: When you are selling a crypto asset, where is it located? And, secondly, are receipts from the selling of a crypto asset income or capital?

**THOMAS:** Yeah. The question of territoriality is a very good question. I'm not sure that there are any good answers. I think that different jurisdictions will look at this differently. I think that, for example, if you have means to carry out a trading activity, it doesn't really matter where the crypto asset is located. I think it matters where you are located and where you are carrying out your trading activities. So, I'm not sure that there is any sort of hard and fast rules, which are easily explained about that.

With regards to selling a crypto asset, is it income or is it capital? Again, it depends on frequency. It depends on whether this is a trading activity, or at least in Malta, or it depends on whether this is an investment type of activity.

And there aren't any particular or specific rules with regards to cryptocurrencies as such. So, we would refer back to, you know, the old school examples and principles like badges of trade and all that which the ones with a tax background have probably read until we started crying. But, so, no particular or specific crypto rules.

Is it trade? Is it an activity? Is it a taxable activity? Then, I think, territoriality becomes where you're carrying out the trade, not where the asset is situated. If it's capital gain, if it's an investment type of activity, at least from a Maltese perspective, again it doesn't matter where the crypto asset is located because there would be zero tax in them.

**MATEO:** Thank you, Thomas. Charis, any comments on territoriality?

**CHARIS:** Yeah. I think this is one of the main, main questions in this field, and it is a very, very good question. And I agree with Thomas that whatever we say is just, I understand, personal opinions because we don't know exactly. There is not a uniform way of reaction, globally, in terms of this.

So, my personal understanding of this is that, okay, we need to pay attention to a number of details as regards the transaction itself, where the sale actually takes place, whether it's on an exchange platform or from one wallet to another wallet. Okay, this is technical stuff, obviously, that we should take into account. But at the end of the day, I understand that you will be either taxed as a person of the country where you're a tax resident or if you are a company, the country where this money appears as an income, right?

I mean, I can't see any other issue that needs to be addressed here, but definitely, I'm not saying that this is the right way of approach because, okay, it will make the scenario a little bit complicated and we'll have transactions if you're resident of one country, tax resident of another country, the same takes place from your crypto wallet, the server is in x country, then you sell to z country. You know, all these complications in terms of internationalization. So, these are extra food for thought in terms of territoriality.

But personally, I repeat, I do not see any other way to approach this issue apart from being taxed in the country where the money is. And I agree also with Nikola before, who said that everything starts to become a matter of discussion when you exchange your crypto to fiat because for as long as you keep your cryptocurrencies transferred to another crypto, from crypto to crypto, there is not actually much of interest in terms of taxation. The interest starts when you switch to fiat.

**MATEO:** Thank you. Thank you, Charis. Dmitry, since this is your question, you want to provide us with your opinion?

**DMITRY:** To begin with, I think Thomas made an excellent distinction of whether we are trading or whether we're investing with regard to determining the source of the income or gain. Because indeed under UK law, if you are trading an asset, then indeed you should be taxed at where you're trading, in which case whether you are—I will just use Bitcoin from now on, instead of using cryptocurrencies—if you're trading Bitcoin, say as a broker, you will always be liable to income tax in the UK on your profits from your trading activity.

However, as I said before, realistically, at this point, it will be quite difficult for anyone to be considered trading in Bitcoin, and more people are investing in it. This raises some very interesting issues about the territorial, about the location of the asset.

The UK Tax Act say that because Bitcoin is an intangible asset, there are special regulations which determine where an intangible asset is located. And normally we have to look at the government rule, which governs the place covered, etcetera. But then this is where the tax law meets the technical reality with regards to how do you determine where, which is the applicable law that governs a particular cryptocurrency.

There is an argument that if you trade, if you're investing in an asset, which is located in a crypto-exchange outside of the UK, then there's a good argument that it is located outside of the UK. And for our clients, we advise them to use non-UK exchanges for this purpose because it increases their chances.

I spoke to a UK counsel and she mentioned an idea that HMRC could argue that because the ledger is distributed, which means it is everywhere, it may include, in practice, means that cryptocurrencies are literally everywhere including in the UK. But this will be a bit of a silly argument and will probably not succeed.

The bottom line is this is a real problem faced by many of our non-domicile clients because once they're looking to convert their crypto investments into fiat, they don't know whether they can claim in remittance basis or not. And there is no right way of doing it at the moment. They could go to counsel but counsel's opinion is not binding on HMRC yet.

And, unfortunately, it's very difficult to get a binding ruling from the revenue with respect to the territoriality of crypto assets. So, what we are advising the client on the balance of probability is try to use tokens issued by the non-UK issuers, use non-UK exchanges, and ideally be a non-UK resident when you're realizing such assets to make sure that you are not liable to get taxed. In short, this is still a big mess and we don't have clear-cut solution.

**MATEO:** Thank you, Dmitry. Nikola, anything to add? I'm going to wrap up with Anna.



**NIKOLA:** I think that everything has been said. I wouldn't add anything to this in particular.

**MATEO:** Okay. Anna, on the issue of territoriality, any comments?

**ANNA:** Yeah. Yeah. Like the answer of Thomas, we have a personal tax regime in Israel and so it doesn't matter where the coins are or a taxpayer is situated. The question that we need to ask is if the individual or entity is an Israeli resident or not. And actually, recently we have several clients that are considering changing their residency because of the current taxation of crypto in Israel.

And regarding the second question, as I said, if it is a business activity or capital gain tax, we need to check Israeli case law and its very old terms that are not compatible with the digital reality of nowadays.

**MATEO:** Thank you, Anna. Okay. Let's go on to our next question. I know Charis brought this up earlier about the banks. So, we have a question here basically which is, which, which jurisdiction is home to the most crypto-friendly banks or which jurisdiction is actually, you know, has a banking system that can support the cryptocurrencies? Charis, you want to get us started with that one?



### Question 3: Which jurisdiction is home to the most crypto-friendly banks?

**CHARIS:** Yeah, sure. Okay, I'm not sure if we can say that there is a crypto-friendly bank regime or, you know, jurisdiction because, from my experience, what I understood is that it is a matter of the risk appetite of each bank at the end of the day. What applies so far is that we have the regulators pressing for extra AML procedures, additional KYC requirements, you know, all these criteria, standards that they're applying over the last few years in order to control the universal income at the end of the day, right?

Now, the situation here is that the threat of taking sanctions or measures against banks makes the banks much more concerned about any kind of transactions that directly or indirectly has to do with digital currencies. I'm not aware of any bank in the world that feels free to trade or accept any transaction that involves crypto. I don't know if any other of my colleagues have a different view on this. And, of course, we know, we've heard about examples from Switzerland, Estonia, Japan, Gibraltar, Malta maybe. I don't know if Thomas can advise more on this.

Okay, you know, it is important to understand that as long as there is not any solid regulation about this, it is very, very difficult for the banks individually to go against all these circulars that frequently are issued from the Central Banks, the European Central Bank about the risk, the dangers behind this kind of transactions, all these warnings about money laundering, about everything. All these make the banks a lot more hesitant in terms of accepting transactions. They see cryptos at the moment more as a problem rather than as an alternative payment method, for example, all right?

I don't believe that this will last forever, of course, because obviously everybody waits to see how the regulators universally will start to respond to these, and we will be ready to answer in a more consistent way this question about most crypto-friendly banks maybe, hopefully, in 2019. I don't know if it's going to be the middle or late 2019, but definitely it's not going to last more than that to have a clear picture of the situation with the banking sector.

**MATEO:** Thank you, Charis. Thomas, since Charis pointed you out to provide your opinion first, let's go with you.

**THOMAS:** I mean, as Charis pointed out, banks have a peculiar problem in this industry. The European Banking Authority has issued a couple of statements basically warning banks to stay out of the industry altogether. I mean, the last one was back in 2014, I think it was, that they recommend that national supervisory authorities discourage the use of virtual currencies. So, I mean, when you have your banking authority saying that, it takes a brave bank to stand up against it. But, having said that, we do have some brave banks.

We have banks in Malta that will accept to service companies in the industry. We have some banks that are willing to service the full, sort of, even a crypto-exchange type of operation. We have other banks that are willing to service companies in the industry, but limited to administrative sort of banking day-to-day like, you know, payroll and payment of expenses and things like that. And then we have banks that are refusing. And so, again, and referring to what Charis said, it's up to the individual bank and their risk appetite.

We're obviously hoping that with the onset of regulation and licensing regime that but more banks will start accepting this type of business because at the end of the day the authority that would license the crypto businesses is the same authority that is issuing licenses to banks. So, there should be some added level of comfort for the banks when a business has been licensed by the authority that they should feel that it's easier to accept this type of business. But it remains to be seen and, again, up to the individual bank and their risk appetite.

**MATEO:** Thank you, Thomas. Nikola, anything to add on the banking?

**NIKOLA:** I think that one important thing that has to be emphasized here is the risk analysis. When banks generally look into a certain asset or certain currency or anything that they want to deal with, loans and anything, they also analyze the risks of accepting that.

Now, we have seen that the cryptocurrencies have proven to be one of the riskiest assets in the world currently with most—I think that 80% or more of the cryptocurrencies have declined in value for approximately 80% to 90%, some even more. So, if you are a bank and if you would accept deposits or any other form of business with cryptocurrency, and then you risk this sort of price crash, which we have seen from January, I don't see banks accepting it even if the regulations are all clear.

From their point of view—I have spoken with a lot of bankers in Serbia and abroad—they mostly see cryptocurrencies as a generally speculative asset, which is very unstable and which is not, in some ways, sustainable in the long run. And until we see more utility of cryptocurrencies in everyday life, in business transactions or anything, I don't think that we will see any banks dabbling with cryptocurrencies.

For example, most of the coins—I mean I really followed this thing—if we take a look at CoinMarketCap, it's the most recognized in the world when it comes to showing the prices of various coins. And if you take a look at the charts, if the price of a coin goes like this, and below if you see the trading volume, the trading volume matches the price going up and down.

And most cryptocurrency exchanges have daily quotas, minimum quotas of trading, in order to keep their coins listed. For example, if we create the Taxlinked coin, for example, and they want it to be tradable on lots of different exchanges, we actually must do trading. Now, if there are not enough people to do the trading, we have to do it ourselves and that costs. Every transaction, there is a fee, there is a fee. And every day you do 100,000 Euros, 150,000 Euros worth of trading, sooner or later you would run out of money. And that's why most of the coins have

either plummeted or have been de-listed from most of the exchanges because most of that volume was actually fake from the producers themselves.

And there is no real usability for most of the coins out there on the market, so they have been created just to exist, to be some form of trading. Usually, the creators of such coins made money and they don't care what happens to the coin itself. And in that regard, the market is still extremely risky.

I felt that as well because I have been accepting various cryptocurrencies and now most of those cryptocurrencies, all those cryptocurrencies, are down. So, if I want to put myself in the shoes of the bank, I would say definitely not. So there is a huge risk involved with that.

**MATEO:** Thank you, Nikola. Dmitry, some remarks on the banking and cryptocurrencies.

**DMITRY:** I just want to add, again, something from my personal experience. Individuals who want to deposit their Fiat from their disposals of cryptocurrencies face problems from the banks, which want to confirm that the initial funds to acquire the asset were acquired in proper ways. And some banks, they just wouldn't touch such money with a pole, however, other banks, mostly banks located in London and also in Switzerland, would not have an issue with it. But there is really no uniform quality regarding the acceptance from cash, from the realization of the Bitcoin.

For companies, I would say it's a bit more difficult because to begin with, it is extremely difficult to open any kind of bank account in the UK, so it's really not an exception, especially for companies that deal with such new assets. So, really you cannot go to a Hartford bank and ask them to open a trading bank account for a company, which issues tokens, and get fiat. So, from my experience, clients would go to the Baltic States or to Gibraltar to open bank account there. There's one Swiss bank, which operates in the UK, which accepts such companies, but we're really talking about large volume of transaction. So, they won't look at anything, which is fairly insignificant and would not bring them much income.

In summary, the situation is quite difficult when someone comes to us and asks us to help with them with opening a bank account in the UK, we'll say, "You will have much better luck in doing it outside the U.K."

**MATEO:** Thank you, Dmitry. So now, now, we enter that portion of the webinar, in which our listeners start submitting questions. So, we have two questions here from our listeners.

One of them actually was listed on our sheet so I'll start with that one. And he's asking, "Why is selling a cryptocurrency to buy another one, why is it not a taxable event?" He says, "As an asset, you sell it and you buy a distinctly different asset. It is like selling a book and buying pencils from the proceeds. If the original purchase price is lower than the price where you sold, it is income."

So, Anna, do you want to get us started there? I know this is a question you had asked about whether it's a tax event when you exchange one cryptocurrency for another. Go ahead.



## Question 4: Why is selling a cryptocurrency to buy another one not a taxable event?

**ANNA:** We also have a tax authority position on this regard. Because the tax authority had to define the crypto as an asset, it is concluded that in any case where one crypto coin is converted into another crypto coin, Bitcoin, Ethereum, Litecoin, or Dash, for example, without going to fiat, the tax event accrues and capital gain tax has to be imposed on it.

According to this position and according to Israeli law, every time a trader exchanges one digital coin to another, he is required to report and pay tax within 30 days. That is impossible. And in similar case, in the securities fields for example, there is a special provision that gives relief in reporting and paying the tax on a half-year base.

So we disagree with this written position of tax authority and we think that up to the time the taxpayer exchanges his digital coin to fiat, the digital coins he held were not considered as an asset at all. And only after exchanged to fiat, there is a tax event that must be reported and pay tax for it. Or alternatively, we believe that in the case of cryptocurrency, a special provision of reporting on semi-annual or an annual base has to be applied similar to the securities fields in Israel.

**MATEO:** Thank you, Anna. Thomas, what's your take on this?

**THOMAS:** Yeah. I'm not sure that it is the case when you have a trading situation that you only take the point where you come back into fiat as the sort of taxable event. I know that in, for example, the US, you would need to look at every single transaction even when you're transferring one crypto to another and to look at exchange rates there and then. I know that, for example, if you were trading in currencies you would have to recognize trades as and when they happen with the exchange rates as of that time.

So, I'm not 100% sure that you can say that there isn't a taxable event if you're in a trading situation when you convert one crypto to another. There is no guidance. There is no written sort of justifications or anything from the Maltese Tax Authorities in this regard. But I have a sneaking suspicion that they would want to see every transaction accounted for with a conversion rate into Euro, which is our currency. Or if you're trading in the name of a company, in the currency of that particular company as this sort of recording event when it comes to taxation. So, I'm not sure that you can say that the tax authorities are not interested when you're converting one crypto to another, and only interested at the time when you convert that to fiat.

Now, obviously for purposes of checking and whatnot, you will have to be meticulous with your own recordkeeping. Otherwise, we're going to get lost, you know, and so will your auditor, and so will the tax authorities. But that's the different issue.

**MATEO:** Thank you, Thomas. Charis, Dmitry, Nikola, do you guys have any comments on this? Because I have a few other questions that are coming in from our listeners.

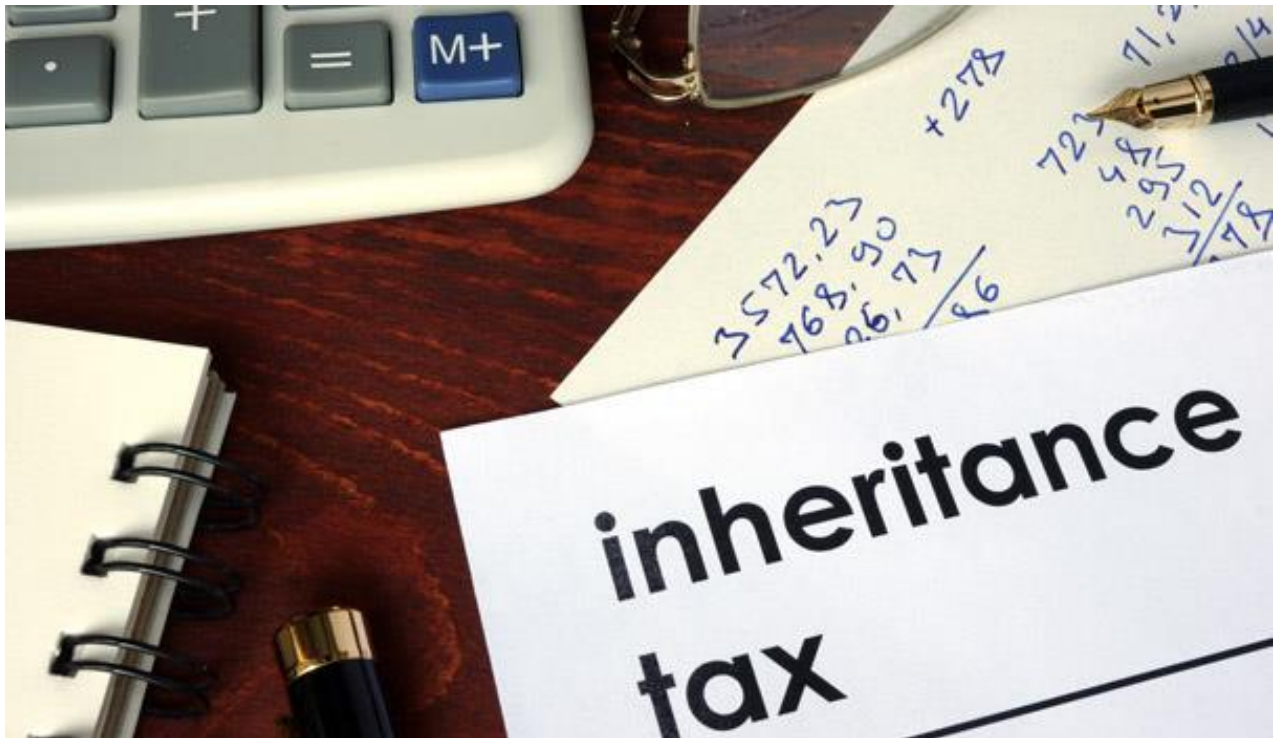
**DMITRY:** I'll just add to that quickly that when exchanging one currency into another from the UK point of view, it's considered a barter transaction. So, each and every time you have a disposal of one and an acquisition of another at the prevailing exchange rate to Pound sterling. So, in other words, each time you buy, each time you sell, and then you acquire one, you have to do these exchanges in the Pound sterling. And this is why those who trade or invest in many currency fairs during the day, they have to be very meticulous in tracking their exchange rates of the today. So, I don't think it's anything new in the UK.

**MATEO:** Thank you, Dmitry. Nikola.

**NIKOLA:** I mentioned earlier that Serbia doesn't recognize crypto as an asset, so if you're trading crypto to crypto, the state sees that you're trading nothing for nothing, so.

**CHARIS:** From a legal point of view, you have a taxable event when or if the jurisdiction concerned specifically recognizes the cryptos as assets in order to activate something, which has tax interest. In the absence of that, I think that we can have a taxable event where you have transactions in fiat. Simple as that.

**MATEO:** Excellent. Thank you. Okay, we have another three questions that came in from our listeners. We'll try cover that. We still have another 20 minutes. This one is regarding inheritance or estate tax. So, the question is, what are your considerations regarding inheritance or estate tax taking into account that cryptos are not nominated but rather anonymous, and also that you need that personal password that maybe is not in possession of the heirs. Anyone of you want to take that? Any opinions?



## **Question 5: What are your considerations regarding inheritance or estate tax, taking into account that cryptos are not nominated but rather anonymous and also that you need that personal password that maybe is not in possession of the heirs?**

**THOMAS:** We actually have it in the new law. We have an exemption from what we call duty on documents and transfers. So, we should not have any type of tax or duty when such assets are transferred or rather transmitted to inheritance.

With regards to who has the access, who has the key, and all that, I mean my understanding is that if you lose the access, you lose the asset. So, that is obviously has nothing to do with duty or inheritance but, yeah, it's a problem in itself.

**MATEO:** Thank you, Thomas. Dmitry.

**DMITRY:** I know that we're running out of time so I'll be brief. You have to consider this question from two angles. One is the tax angle and the other one is the inheritance, actually, passing of the assets on death and the will or the trust, et cetera. I'll begin with taxation.

In the UK, there's an inheritance tax, which can reach up to 40% of the net value of the assets of the person on death. Therefore, if a person owns x amount of Bitcoin on death, then this amount presumably will be converted into Pound sterling and then there would be a 40% inheritance tax. And a person who is, as you call it, a layperson would say, "How do they know that I have Bitcoin?"

Well, it's a valid question because you could argue that it is anonymous. But by law, if I own something, I own something. And a lawyer and a tax adviser, obviously the revenue, would argue that if someone was the beneficial

owner of what you call asset on death, then of course, it should be comprised in their estate and tax should be paid on it whether you can trace it to him or not because this is a different question.

But with regards to the tax liability, in the UK, again, we have the distinction between persons called domicile in the UK and those who are not domicile here. The main difference being that those who are not domicile—and I presume most of the listeners know the differences between dom and non-dom—if you are domicile in the UK, then you only pay inheritance tax on the assets, which were in the UK when you die.

Therefore, we're coming back to the question of the territoriality. Where were the assets at the time when you died and whether they're liable to inheritance tax or not? I don't have the answer to it and we're coming back to the location of the asset, et cetera.

With regards to the transfer of assets on death, I'm not a technical guy and please don't keep me if I say wrong things here. But basically, you need certain code and keys, a private key, public key, et cetera, to transfer the assets from you to your heirs. And from what I know, invariably you must transfer the key either in your will or to the executor, anonymously, et cetera.

And I know there have been proposed instructions, which involve a certain three-part keys when neither the transferrer nor the transferee can receive it without the involvement of the person who looks after the estate. So, in other words, there are methods to execute the transfer of crypto assets on death under the will or under the trust, but I think they are still being developed to be available to the public.

**MATEO:** Thank you, Dmitry. Okay another question that came in from our listeners. This one I think is more directed to our generalists so I'm talking about Charis and maybe Nikola.

Are there any-- and this is-- there might not be an answer to this. So, the question is, are there any developing countries in Africa, Latin America that have introduced policies or positions on the taxation and regulation of cryptocurrencies and blockchain technology? Anything that you guys are aware of?

Charis, have you heard of anything happening in Latin America or one of the developing world?



## Question 6: Are there any developing countries in Africa or Latin America that have introduced policies or positions on the taxation and regulation of cryptocurrencies and blockchain technology?

**CHARIS:** No, I'm afraid not, sir. I have no... No, I prefer not to say anything because I'm not 100% sure. I don't know if anybody else has any clue of about this.

**MATEO:** Anyone else? Nikola, have you heard of anything?

**NIKOLA:** I cannot remember exactly which country it is. I have been speaking to some people who are saying that their country is testing blockchain for land registry, but I have to look it up somewhere in the emails. I think it was six or seven months ago and I have to really look it up. But currently I cannot say. I think I have several friends from Africa who are saying that some things are developing out there, but it is still a long way from any nationwide blockchain projects or something.

**MATEO:** Thank you, Nikola. Thomas, do you have something to add?

**THOMAS:** Yeah. I know that the Maltese authorities are actively looking into using blockchain technology for their land registry, so it might have been that. But when it comes to Africa, I wouldn't be surprised if developments will come from there. I mean, they were fairly early when it comes to, for example, using mobile phones as a means of payment and all these sort of technology that doesn't require a lot of central infrastructure but can be sort of, you know, person-to-person. So, it wouldn't surprise me if developments would come from there, but I have no hard knowledge.

**MATEO:** Okay. Thank you, Thomas. Now we have a question, which is actually for Charis, and this is about Cyprus. And the question goes:

Thomas mentioned that the same regulator regulating banks will be the one who eventually regulates crypto so the impression is that crypto is a currency. In Cyprus, as far as I know, regulation will be done by CYSEC, not the



CBC, thus viewed more as a financial instrument, commodity, or security. What is your view on this, Charis, in Cyprus's case?



**Question 7: In Malta, the same regulator regulating banks will be the one who eventually regulates crypto, so the impression is that crypto is a currency. In Cyprus, however, regulation will be done by CYSEC, not the Central Bank, thus labeling crypto assets more as a financial instrument, commodity or security. What is your view on this in Cyprus's case?**

**CHARIS:** Yeah. It's a very good point and very good question. And the situation in Cyprus is that, yes, indeed, it is the regulator for crypto seems to be CYSEC primarily. So, the Central Bank, apart from what I mentioned to you earlier on, the circular they issued back in 2014, which essentially repeats what the bank or the European Bank Authority says in this matter, we do not have any other statement from them in contrast to what happened with CYSEC, which shows active interest in informing, let's say, the very first basic framework about cryptocurrencies.

And I know personally that they are not so strict, so against cryptocurrencies, compared to what happened with the banks. And I have a personal experience where I had the opportunity to discuss with CYSEC, with some officials there, that the possibility of setting up, for example, a crypto fund. And the reaction I got or the impression I got is that most likely you will get a license to set up a crypto fund, but the problem will be on a daily operation of the crypto fund when it comes to the money flow going through the banking system. So, you get a license from one regulator, but most likely you will face problems when it comes to dealing with the banks.

So, this gives me the impression that CYSEC will look at it in a more positive way, the issue of cryptocurrencies. And, yes, it is the primary regulator that has to decide about this. I don't know if that is exactly the case. I heard what Thomas said before about Central Bank in Malta and I don't know if the Security Exchange Committee in Malta has similar powers, which obviously it has because it is a European regulation. And I would feel surprised if it applies something different in Malta.

So, my answer to this question is, yes, it is CYSEC that has a sort of capacity to decide on this. They are not negative, of course not 100% positive, but they are on the more positive, you know. They give a positive impression to all of us that they will not raise, as usual, many red flags around this.

**MATEO:** Thank you. Thank you, Charis. So, we have about less than 10 minutes left so let me—I'll ask one final question to kind of use it as concluding remarks and then we'll call a close to this webinar. I don't want to keep you here for too much longer. But basically, what is your forecast for, you know, Bitcoin and blockchain and the taxation and regulation of cryptocurrencies, either in general, throughout the world, or in your jurisdiction? Let me start with Nikola, your concluding remarks.



## **Question 8: What is your forecast for Bitcoin and blockchain and the taxation and regulation of cryptocurrencies, either in general or in your jurisdiction?**

**NIKOLA:** Well, I think that cryptocurrency will have more strict regulations than the blockchain because blockchain is generally, it can be considered as an operating system. So, a lot of companies are now experimenting with blockchain more, the banks are experimenting with blockchain. And I don't think that there is a law that forbids you, your company if you're a tech company, to upgrade your technology onto the blockchain. I don't think that there will be a lot of strict regulations comparing, for example, for Bitcoin and other coins. Cryptocurrency adoption will be, I think, challenged a little bit due to the price fluctuations. But, in the long run, I think that we are like five to 10 years from more or less a cryptocurrency adoption. For example, like the cellphones have been in the early 2000s, and now, I think that we are on that point with cryptocurrencies in general.

**MATEO:** Thank you, Nikola. Dmitry, any final remarks?

**DMITRY:** Again, I know I keep talking about the individual aspect of cryptocurrencies, but realistically this is what's been more popular as opposed to the UK companies dealing in such assets.

We've really had, what, one or maybe two tax years at the most where people were heavily investing in the crypto asset. And now we are nearing the time when they all need to file their tax returns and wherein such returns will be investigated.

Moreover, by the end of September, everyone should be good with HMRC because the requirement to correct becomes effective. Basically, until the end of September, this is their last chance for everyone to regularize their tax liabilities and pay the penalties. So, I would say that in the next year or two we'll have a clearer decisions of tax tribunals with regards to the territorial aspect of the cryptocurrencies and also to the taxability and any tax exceptions. So, I would say another two or three years before we have something more tangible than what they have now.

**MATEO:** Thank you, Dmitry. Anna, some concluding remarks? What's your forecast for Israel?

**ANNA:** Actually, I'm very positive regarding the cryptocurrency future. For example, we have a great implementation of blockchain technology in Israel like a whole application that enables to use mobile phone as a credit card. And I hope that tax authorities in Israel will apply a more soft position in regard to blockchain and to cryptocurrency.

**MATEO:** Thank you, Anna. Charis, any concluding remarks? And then, we'll wrap up with Thomas.

**CHARIS:** Yeah. I mean, after I speak about Cyprus, as I said in my introductory comment, in Cyprus we are still in a premature stage. We are still in the stage where we try to understand how blockchain operates, what are the digital currencies. So, it is a matter of better understanding first of all.

Already, as I told you before, all stakeholders have been invited by the Parliament to start looking deeper on how to legislate on that issue. We pretty much follow circulars, warnings issued by the European regulators, and we simply repeat them in Cyprus. I'm speaking about CYSEC and the Central Bank mainly. So, obviously we are looking closely to what's going on around the world. Malta is, of course, an example, a case study for us, so we will look closely to what happens there. And hopefully we will have a much clearer view of the situation and where things are going and how the legislator intends to intervene in this area next year.

**MATEO:** Excellent. Thank you, Charis. And last from blockchain island, Thomas.

**THOMAS:** I think we need to distinguish between the technology itself and what some people uses the technology for. Crypto has been the sort of, if you want, the sexiest part of the technology for the last year, year and a half. But the Maltese approach has been not to legislate for cryptocurrencies as such but to legislate for the technology. So, we've introduced three acts. We've established a Malta Digital Innovation Authority, which looks at service providers in the auditory technology and the technical administration.

We've established an Innovative Technology Arrangements and Services Act, which looks at software architecture in the sort of designing and delivering of the distributed ledger technology, smart contracts, related applications, and all of that.

And then the third pillar, if you want, is the Virtual Financial Assets Act and cryptocurrencies form part of that. But it's not just cryptocurrencies. You can have virtual financial institutes. You can have electronic money. Then you can have virtual tokens and all that.

So, I think that the technology is very interesting. The technology is here to stay and to be developed. The sort of faith of the existing cryptocurrencies that are on the market, your Bitcoin, your Ethereum and all that, I don't know. I wouldn't be surprised if we are going to see very soon a sort of a crypto-fiat, I call it, whereby for example European Central Bank will establish Euro as a cryptocurrency or rather using the technology of blockchain to be able to transact in Euro. And then that will obviously blow a big hole in the use of other private, if you want to call them that, cryptocurrencies.

So, instead of fighting the cryptocurrencies, I have a feeling that governments will start adopting it and competing with the private issuers. Having said that I do think that utility tokens, for example, have a place and a use in the

gaming sector, whatever, so I'm seeing that there's a future there. But I do think that the sort of anarchy aspect and the rebellious aspect of cryptocurrencies will not last for too long and cryptocurrencies will become mainstream.

**MATEO:** Thank you very much for that, Thomas. Thank you very much to all of you for participating. We have reached our allotted time. Before I say goodbye, let me get some admin issues out of the way.

For all of those here listening, this webinar has been recorded. We'll have a video/audio recording out shortly, probably next week at some point. And we'll also have a whole transcript for those of you who missed it and that'll be available. We'll send an email to all of you who attended and via Taxlinked.

And also, if you listened in and you paid attention, and you learned a lot from this, get in touch with us and we'll send you a certificate for your CPD credits. And if you have any questions, any follow-up questions for our panelists, make sure to submit them in the relevant Taxlinked forum and they'd be happy to cover those for you. I know we had a lot of questions and we had a lot of information to cover, so there's some that we left untouched. But if you still want those answered, I mean, please let us know.

So, without further ado, you know, thank you, Anna, Thomas, Charis, Dmitry, and Nikola for doing this, for taking the time. And we'll have a redo or we'll look at the issues again in a couple months here in Cyprus. So, thank you very much and hope you have a good weekend, all of you.