

4. QUESTIONS CONCERNING THE APPLICATION OF EU VAT PROVISIONS

4.2. Origin: Commission
References: Articles 2(1) and 135(1)(d) and (e) of the VAT Directive
Subject: VAT treatment of crypto-assets
(Document taxud.c.1(2022)1585400 – Working paper No 1037)

1. For the purposes of the present guidelines,
 - a. "crypto-assets" shall mean a digital representation of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology;
 - b. "crypto-currencies" shall mean crypto-assets that are accepted as a unit of account and means of payment in accordance with the case-law of the Court of Justice of the European Union (CJEU);
 - c. "distributed ledger technology" or "DLT" shall mean a technology that enables the operation and use of distributed ledgers;
 - d. "distributed ledger" shall mean an information repository that keeps records of transactions and that is shared across, and synchronised between, a set of DLT network nodes using a consensus mechanism;
 - e. "consensus mechanism" shall mean the rules and procedures by which an agreement is reached, among DLT network nodes, that a transaction is validated;
 - f. "DLT network node" shall mean a device or process that is part of a network and that holds a complete or partial replica of records of all transactions on a distributed ledger.
2. The VAT Committee **unanimously** agrees that supply of goods or services remunerated in crypto-currencies shall be treated in the same way as any other supply for VAT purposes.
3. As regards crypto-currencies, the VAT Committee **unanimously** agrees that for the purposes of the application of the VAT Directive¹ and in accordance with the case-law of the CJEU², these shall be treated as a currency.

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

² Judgment of 22 October 2015 in case C-264/14, *Hedqvist*, EU:C:2015:718.

The VAT Committee thus agrees by **almost unanimity** that the creation, the verification and validation (mining and forging), the supply³ and the modification for own use of crypto-currencies shall be treated as:

- a. out of the scope of the VAT where they are made free of charge, such as through airdrop,
 - b. taxable, but exempt under Article 135(1)(e) or (d) of the VAT Directive, where they are made for consideration directly linked to the supply at stake.
4. The VAT Committee **almost unanimously** agrees that storage and transfer of crypto-currencies, such as made through the digital wallets, shall be treated as taxable, but exempt under Article 135(1)(e) of the VAT Directive.

Further, the VAT Committee agrees by **almost unanimity** that exchange of crypto-currencies for fiat currency or for other crypto-currencies shall be treated as taxable, but exempt under Article 135(1)(e) of the VAT Directive.

³ Making available